Response to Comments
Final Environmental Impact Report

Chabot Dam Seismic Upgrade

Prepared for:

East Bay Municipal Utility District

May 2014

SCH#: 2013042075

May 30, 2014

Notice of Availability and Public Hearing
Final Environmental Impact Report
Chabot Dam Seismic Upgrade Project

The Board of Directors of the East Bay Municipal Utility District (EBMUD) is scheduled to consider certification of the Chabot Dam Seismic Upgrade Project Environmental Impact Report (EIR) and approval of the project, on June 10, 2014 at the regularly scheduled meeting which begins at 1:15 p.m. in the Board Room at EBMUD Administration Offices, 375 Eleventh Street, Oakland, CA 94607.

The proposed project involves two components: improvement of the dam embankment and improvement to the outlet works. The project, including haul routes and stockpile areas, is located within EBMUD property, which reduces truck traffic in nearby neighborhoods.

A Draft EIR was prepared for the project and released for a 60-day public review on December 6, 2013. All comments received on the Draft EIR have been compiled and responded to in the Final EIR including any changes and clarifications to the Draft EIR.

Copies of the Final EIR are available for public review at the EBMUD office located at 375 Eleventh Street in Oakland, at the libraries listed below, or by download at the EBMUD website www.ebmud.com under “Construction Projects and Project Updates”.

San Leandro Library	*Castro Valley Library*	*Oakland Main Public Library*
300 Estudillo Avenue	*3600 Norbridge Avenue*	*125 14th Street*
San Leandro, CA 94577	*Castro Valley, CA 94546*	*Oakland, CA 94612*

A copy of the Final EIR may also be obtained by email at Chabot.Dam.EIR@ebmud.com or contacting Bill Maggiore at (510) 287-1021.

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Final Environmental Impact Report

Chabot Dam Seismic Upgrade

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Acronyms and Abbreviations

ADMP	Asbestos Dust Mitigation Plan
ADT	average daily traffic
ATCM	Air Toxics Control Measures
BAAQMD	Bay Area Air Quality Management District
CAAQS	California Ambient Air Quality Standards
CCC	California Central Coast
CDFW	California Department of Fish and Wildlife
CNDDB	California Natural Diversity Database
CPMD	Chabot Dam Public Meeting
CRHR	California Register of Historic Resources
dBA	A-weighted sound level
DMP	drought management program
Draft EIR	Draft Environmental Impact Report
EBMUD	East Bay Municipal Utility District (lead agency)
ESA	Endangered Species Act
HMBP	hazardous materials business plans
L_{dn}	day-night sound level rating
msl	mean sea level
NAAQS	National Ambient Air Quality Standards
NMFS	National Marine Fisheries Service
NOA	naturally occurring asbestos
NOP	Notice of Preparation
NOx	oxides of nitrogen
PM	particulate matter
proposed project	Chabot Dam Seismic Upgrade Project
USFWS	U.S. Fish and Wildlife Service
USGS	U.S. Geological Survey
UST	underground storage tank
UWMP	Urban Water Management Plan
WCMP	Water Conservation Master Plan

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1 Introduction

1.1 Purpose of the Final Environmental Impact Report

This Response to Comments document has been prepared to accompany the Draft Environmental Impact Report (Draft EIR) for the East Bay Municipal Utility District's (EBMUD) Chabot Dam Seismic Upgrade Project (the proposed project). The Draft EIR evaluated the potential impacts of the proposed project and recommended mitigation measures to reduce significant and potentially significant impacts. This document responds to comments on and makes revisions to the Draft EIR, as necessary. Together with the Draft EIR, this Response to Comments document constitutes the Final EIR for the project.

1.2 Environmental Review Process

On December 6, 2013, EBMUD (lead agency) released the Draft EIR for public review (State Clearinghouse No. 2013042075). The public review and comment period extended from December 6, 2013 through February 4, 2014. A public meeting was held at 6:30 p.m. on January 16, 2014, at the San Leandro Library, located at 300 Estudillo Avenue, San Leandro, California.

This Response to Comments document has been prepared based on comments submitted during the public review period. In addition to comments received during the public meeting, a total of 8 comment letters were received, as listed in Table 1-1.

1.3 Report Organization

This Response to Comments document is organized as follows:

- **Chapter 1: Introduction**. This chapter discusses the use and organization of the Responses to Comments document. Names of agencies and individuals who commented on the Draft EIR are included in this chapter.
- **Chapter 2: Comments and Responses**. This chapter contains copies of comments received during the public review period and responses to those comments. Each comment letter is coded with the initials of the commenter or agency/organization acronym. Each comment is bracketed in the margin of the letter and assigned a secondary, comment-specific number. For example, the first comment in the letter from the State Clearinghouse, Governor's Office of Planning and Research is SCH-1. Each comment letter is followed by a response corresponding to the bracketed comment.
- **Chapter 3: Document Revisions**. This chapter presents changes to the Draft EIR that reflect text changes initiated by staff subsequent to publication of the Draft EIR and in response to comments to clarify, update, or correct the Draft EIR text. The text changes have not resulted in significant new information with respect to the proposed project, including any new potentially significant environmental impacts that cannot be mitigated to a less-than-significant level, or in any new mitigation measures. Corrections to the text and tables of the Draft EIR are contained

in this chapter. Single underlined text represents language that has been added to the Draft EIR; text with ~~strikethrough~~ has been deleted from the Draft EIR.

- **Chapter 4: References.** This chapter lists the references cited in this Response to Comments document.

1.4 List of Persons Commenting

The following table lists all agencies, organizations, and persons that submitted comments on the Draft EIR during the comment period.

Table 1-1
Agencies, Individuals, and Organizations – Draft EIR Comments

Event	Comment Code	Date
Public Meeting		
Chabot Dam Draft EIR Public Meeting	CDPM	1/16/2014
Name, Title, and Affiliation	**Comment Letter Code**	**Date**
State Agencies		
Scott Morgan, Director, State Clearinghouse and Planning Unit, Governor's Office of Planning and Research	OPR	2/5/2014
Regional and Local Agencies		
Brian Holt, East Bay Regional Park District	EBRPD	2/4/2014
Chris Zapata, City of San Leandro	CSL	2/4/2014
Individuals and Organizations		
Bill Eckes	BE	2/19/2014
Robin Freeman, East Bay Watershed Center	EBWC	1/30/2014
Name, Title, and Affiliation	**Comment Letter Code**	**Date**
Eric Holmes	EH	2/3/2014
Evelyn and Juan Gonzales	EJG	2/4/2014
Susan Levenson, Friends of San Leandro Creek	FSLC	2/4/2014

2 Comments and Responses

This chapter presents the responses to identified comments received during the public review period. Similar issues were raised in various comments. Therefore, master responses addressing these similar comments are included in Section 2.1. Before each master response, the comment numbers that it responds to are listed. The master responses are as follows:

- 2.1.1 Master Response 1 Outlet Works Cultural Resource
- 2.1.2 Master Response 2 Public Access during Construction
- 2.1.3 Master Response 3 Chabot Park Facilities
- 2.1.4 Master Response 4 Lake Water Level
- 2.1.5 Master Response 5 Potential Impacts to San Leandro Creek Flow

This chapter also includes the 15 comments submitted at the Chabot Dam Seismic Upgrade Project Draft EIR public meeting and responses to those comments, in Sections 2.2 and 2.3, respectively. Furthermore, Sections 2.4 through 2.11 include a copy of and responses to each letter received during the public review period regarding the Draft EIR. Eight comment letters were received, from several public agencies, organizations, and individuals. Each comment letter is reproduced in its entirety, in the same order as listed in Table 1-1. Each letter is followed immediately by responses to its comments. The comment number and text of the individual comment are presented before each response for ease of reference.

2.1 Master Responses

2.1.1 Master Response 1 – Outlet Works Cultural Resource

Master Response 1 is in response to comments CDPM-13, EBRPD-4, CSL-2, EBWC-4, EH-3, and EH-4.

Several of the comments disagree with the impact significance finding for removal of the pavilion.

Cultural Significance of the Pavilion

One of the comments states that the pavilion provides a public vantage point for observing and appreciating the facilities. The Draft EIR's discussion of viewing the relationship between functional components of the water works is referring to viewing the role of the tower (not the pavilion), as stated on page 3.5-14 of the Draft EIR, and does not refer to the pavilion as a viewpoint from which to view the water works. Thus, the Draft EIR analysis does not suggest that the pavilion is significant as a public vantage point.

The pavilion was identified as a decorative component of the Lake Chabot Waterworks Historic District ("Historic District"). Although the Historic District is eligible for listing in the California Register of Historic Resources (CRHR) under all four CRHR criteria of significance, the pavilion only contributes to the Historic District's significance under CRHR Criterion 1. In addition, the pavilion is not individually significant as an historic structure; rather, it only acts as one of many elements that contribute to the Historic District's eligibility for the CRHR. Detailed descriptions of all components

that are contributing elements of the Historic District are included in Appendix E-1, Cultural Resources Inventory and Evaluation Report. The Historic District is eligible for the CRHR under Criterion 1 because of its role in the early development of Oakland. The Chabot water system provided important infrastructure that allowed for the delivery of water in support of Oakland's development until the 1960's, when the reservoir was assigned to standby service. The intake tower (as the outlet tower is referred to in the EIR's Cultural Resources section) has nearly always had a roof structure providing shelter to the mechanical equipment in the intake tower. The original design for the waterworks included a very simple version of the protective roof structure, comprised of four posts and a corrugated metal roof. This function has been served by at least two different roof structures (including the current pavilion) over the history of the Lake Chabot Waterworks system.

However, because the pavilion's physical configuration has been changed over time and the current structure dates to nearly 40 years after the original design and construction of the waterworks, it is not included as a contributor to the Historic District's CRHR eligibility under any criteria of significance other than CRHR Criterion 1.

This distinction is important when analyzing the significance of the impact of removal of the pavilion, which is only one of several features that contribute to the district's eligibility under CRHR Criterion 1. The Historic District conveys its historical significance under CRHR Criterion 1 as an early water source for the development of Oakland when a viewer sees the reservoir and the dam, and understands that this is a man-made source of stored water, and then when the viewer sees the spillways, tunnels, and filtration system and understands that the water was transferred to where drinking water was needed for residential and commercial use. The pavilion does not contribute to the Lake Chabot Waterworks Historic District under CRHR Criteria 2, 3, or 4.

As stated in the discussion of character-defining features for Criterion 1 in the Cultural Resources Technical Report, "under this criterion, continued function is of greater importance than original appearance, in recognition of the need for engineering systems such as this to evolve over time in response to operational improvements, to continue to serve the purpose for which they were historically established" (AECOM 2013). This explains why the removal of the pavilion, which provides no major function to the waterworks, is a less-than-significant impact whereas the removal of the intake tower, which is a major functional component of the waterworks that defines the District's significant historical character under Criteria 1, 2, and 3, is a significant unavoidable impact. Thus, although removal of the pavilion would physically impact the historic district, the EIR appropriately concludes that removal of the pavilion would not constitute a potentially significant impact to the integrity or eligibility of the Lake Chabot Waterworks Historic District. Accordingly, no mitigation is required to address impacts to the pavilion.

The Historic District would continue to be eligible for the CRHR under Criterion 1 even with the loss of the pavilion and the intake tower, since the remaining features of the district could still convey the role that the waterworks played in storing, filtering, and transferring drinking water for residential and commercial use during the early development of Oakland. In addition, implementation of Mitigation Measure CR-1.1 would provide reasonable compensation for the proposed project's impact on the Lake Chabot Waterworks District, including the loss of a feature that contributes to the Criterion 1 significance resulting from the removal of the pavilion. This mitigation measure requires preparation of an electronic document on the history of the district, and would include documentation of the pavilion. This historical information will augment the existing interpretive panels for the East Bay Regional Park District's Lake Chabot Historical Walk which is located near the dam and includes historical photos and information about Anthony Chabot and Lake Chabot.

Cultural Significance of the Intake tower

The analysis acknowledged that a significant and unavoidable impact would result from removal of the intake tower. The intake tower was identified as a contributor to the Lake Chabot Waterworks Historic District under Criteria 1, 2, and 3. Because the intake tower has provided a primary function in operation of the historic waterworks system, its removal would impair the ability of the Lake Chabot Waterworks Historic District to convey the engineering qualities that qualify the district as an historical resource, and would impair the historic district's ability to qualify for listing in the CRHR. Although the District would remain eligible for the CRHR, the analysis concluded that permanent physical impairment of the Historic District resulting from removal of the intake tower could not be mitigated to a less-than-significant level. Therefore, the alternatives address the significant and unavoidable impact conclusion, consistent with CEQA requirements.

Outlet Works Alternatives

Several of the comments suggest that additional alternatives or mitigations should be considered to address the impacts associated with demolition of the outlet tower, the pavilion, or both.

Section 15126.6(a) of the State CEQA Guidelines requires analysis of a range of reasonable alternatives to the project, or to the project's location that would feasibly attain most of the project's basic objectives but avoid or substantially lessen any of its significant effects. The proposed project objectives are identified in Section 4.1.5 of the Draft EIR (page 4-5), in which the range of alternatives was evaluated against. Objectives related to the outlet tower included (1) all structures should serve operational functions, (2) the retrofit should minimize the potential for earthquake damage to outlet works, and (3) the retrofit should minimize future maintenance requirements

Subalternatives for the outlet tower included rehabilitating the tower (with removal of the interior mechanical equipment) as well as complete removal. Retrofitting the tower is considered under Alternative 2a (line shaft, remove pavilion with option to retrofit tower). Subalternatives for the pavilion included retrofit as well as removal. Retrofitting the pavilion is considered under Alternative 2b (line shaft, retrofit pavilion). Further consideration of the retention of these features as a mitigation measure is not required. Section 15126.6(a) of the State CEQA Guidelines requires analysis of a range of reasonable alternatives to the project, or to the project's location that would feasibly attain most of the project's basic objectives, but would avoid or substantially lessen any of its significant effects.

Under the proposed project, removal of the pavilion would not result in a significant impact, thus additional alternatives are not required because they would not avoid or lessen a significant effect, nor would such alternatives meet the outlet works objectives identified above. Thus, the analysis of the alternatives is consistent with CEQA's "rule of reason," requiring that an EIR set forth only those alternatives necessary to permit a reasoned choice (State CEQA Guidelines, Section 15126.6[f]). An EIR is not required to consider all potential variations on alternatives already included in the analysis, and the lead agency concluded the alternatives and subalternatives included in the EIR meet CEQA's requirement to consider a range of reasonable alternatives. *See Mira Mar Mobile Community v. City of Oceanside* (2004) 119 Cal.App.4th 477, 491 ("CEQA does not require an EIR to consider each and every conceivable variation of the alternatives stated.") (internal quotations omitted); *Village Laguna of Laguna Beach, Inc. v. Bd. of Supervisors* (1982) 134 Cal.App.3d 1022, 1029 (same).

The discussion on page 4-38 of the Draft EIR summarizes that Alternatives 2a and 2b would have similar to slightly less impacts than the proposed project. Although these alternatives would reduce the significant and unavoidable impact associated with the outlet tower, the significant and unavoidable impacts for air quality and recreation would remain. The alternatives would not meet all of the project objectives because the pavilion and tower would serve no operational function, would have the potential to collapse in an earthquake and damage the outlet pipe, and would require continued maintenance. Therefore further consideration of the retention of tower or pavilion as a mitigation measure is not required

One comment states that a detailed report should review various ways in which the tower can be retrofitted, relocated, or preserved, rather than demolished. As explained on pages 4.2-1 through 4.2-3 of the Draft EIR, the constructability and impacts of various alternatives, including retrofitting, reconstruction, and leaving the tower in place, were analyzed in a 2013 constructability report prepared by WRE and AECOM. This constructability report evaluated 10 combinations of modifications and approaches for the outlet tower and recommended the removal of the pavilion using a wet/dry construction approach.

Demolition of other Historical Resources

One of the comments states that several historic structures at the Lake Chabot dam have been demolished. EBMUD acknowledges that the physical setting has changed over time and that structures have been demolished in the past. The comment states that demolition of the pavilion would be the most devastating to the local history, and does not specify what other historic structures have been demolished.

The analysis in the Draft EIR used existing conditions as the baseline for evaluation of impacts of the proposed project's implementation against baseline conditions before the proposed project.

Section 15125(a) of the State CEQA Guidelines establishes that the baseline for purposes of a CEQA analysis normally is the physical environmental conditions on site and in the vicinity of the project as they exist at the time that the Notice of Preparation (NOP) is published. The NOP for the proposed project was filed on April 25, 2013. Therefore, changes in the environmental setting that occurred before publication of the NOP (such as previous demolition of structures) were part of the baseline against which the proposed project's environmental impacts were analyzed. The Draft EIR appropriately evaluates the proposed project's impacts.

In addition, the Draft EIR analyzed the potential for the project to cause significant cumulative impacts to cultural resources in accordance with Section 15130 of the State CEQA Guidelines. Cumulative impacts to cultural resources are analyzed on pages 5-12 through 5-13 of the Draft EIR. This analysis acknowledges previous impacts to historical resources resulting from past EBMUD facility upgrades. The Draft EIR analysis also concludes on page 5-13 that the proposed project would not result in a cumulatively considerable contribution to cumulative impacts on historical resources due to the minor overall impact of the project on the Lake Chabot Waterworks District.

2.1.2 Master Response 2 – Public Access during Construction

Master Response 2 is in response to comments EBRPD-1, EBRPD-3, EBRPD-4, EBRPD-10, BE-1, EBWC-5, EH-1, EH-2, and EJG-29.

Several comments state that public access to the trails should be provided on non-workdays, and that temporary trail re-alignments should be considered, and some state that the Draft EIR failed to consider alternatives to the full closure of the West Shore and Bass Cove Trails. EBMUD has taken these comments into consideration but could not identify any feasible solutions that would not involve excessive impacts to public safety or other environmental impacts. However, EBMUD will minimize the length of any trail closures to the maximum extent feasible.

In response to the comment regarding full closure of the trails, as stated on page 3.10-8 of the Draft EIR, project construction would require only closure of a portion of the West Shore and Bass Cove Trails (a total of 1.34 miles), not closure of the entire length of these trails. As stated on pages 3.10-1 and 3.10-4 of the Draft EIR, Anthony Chabot Park has 70 miles of trails, and Lake Chabot Regional Park has over 20 miles of trail. These trails are connected at other points aside from Chabot Park (such as at the north and east ends of Lake Chabot); thus, access to approximately 90 miles of trails still would be available for use during project construction. As stated on page 3.10-9 of the Draft EIR, because of the location of the project work sites and potential safety risks (including naturally occurring asbestos [NOA]), mitigation to relocate the trails around the project work sites would not be feasible and in turn could result in additional environmental effects. The Draft EIR concluded on pages 3.10-8 and 3.10-9 that the closure of Chabot Park and the trails would temporarily displace visitors and trail users, and impacts would be significant and unavoidable. Because of the closure, trail users originating from Chabot Park would temporarily have to travel several miles to access Bass Cove Trail and West Shore Trail and would only be able to use a portion of the Lake Chabot Bicycle loop trail.

Providing a temporary trail re-alignment around the project work limits is not feasible, either to connect the Chabot Park to the Bass Cove Trail or West Shore Trail adjacent to Lake Chabot or to maintain the loop around Lake Chabot. The project work limits include Lake Chabot on one side and steep topography with dense vegetation and residential development on the other sides. Additionally, Chabot Park below the dam, including its parking lot will be closed for the duration of construction due to potential safety risks as discussed below, and therefore cannot be used as a trailhead for any temporary trail re-alignments.

As stated on page 3.12-11 of the Draft EIR, NOA is associated with Franciscan Formation rock that has been determined to be present in the project area. The disturbed soils could pose a risk of exposure to trail users within the project work limits, even on non-work days. Soil disturbance activities would include excavation for CDSM or Conventional Earthwork options, soil stockpiling, road construction, and demolition, which could result in fugitive dust containing NOA, and exposing workers, the public, and/or the environment to hazardous materials, as discussed on page 3.12-11 of the Draft EIR. Work at the project site would be performed according to an Asbestos Dust Mitigation Plan (ADMP), which would require that the public remain outside the project site boundaries. The ADMP would be developed and implemented before and during construction, to reduce public exposure to NOA by employing best available dust mitigation practices. The plan would be enforced by EBMUD and the Bay Area Air Quality Management District. NOA is discussed under Impact HZ-2 on page 3.12-11 of the Draft EIR.

The sentence prior to Mitigation Measure HZ-2.1 on page 3.12-11 of the Draft EIR is revised as follows because many of the measures in Mitigation Measure AQ-2.1 would be included as part of the ADMP:

> However, implementation of **Mitigation Measures HZ-2.1** and **AQ-2.1** would reduce the potentially significant impact related to NOA to a *less-than-significant* level.

The text of Mitigation Measure HZ-2.1 on pages S-50 and 3.12-11 of the Draft EIR is revised as follows to include site-specific measures clarify the requirements of the ADMP:

> Mitigation Measure HZ-2.1: Perform project construction activities in accordance with the Asbestos Dust Mitigation Plan.
>
> Because soils to be disturbed are confirmed to contain NOA, project construction activities, including excavation with either the CDSM or Conventional Earthwork option, soil stockpiling, road construction, and demolition will be performed under an Asbestos Dust Mitigation Plan (ADMP), in accordance with the Air Toxics Control Measures (ATCM) as administered by BAAQMD, to reduce public and worker exposure to NOA by employing the best available dust mitigation practices. EBMUD, as part of the ADPM, will conduct the comprehensive air monitoring. The ADMP shall specify site-specific measures that would be taken to minimize emissions of NOA dust and to ensure that asbestos does not exceed BAAQMD approved levels at the air monitoring locations during construction. EBMUD shall include all applicable dust mitigation measures set forth in the ADMP for the project construction activities.
>
> Examples of dust control measures that may be implemented include the measures identified in the ATCM as well as project specific measures included in Mitigation Measure AQ-2.1. As provided for in the ATCM, alternative measures that provide an equivalent level of dust control may be included in the ADMP subject to BAAQMD authorization. The ADMP shall include, but not limited to, the following dust control measures for construction activities in NOA containing areas:
>
> - Installation of screens, fencing or any other material on the property line to mark the area of activity not open to the public
> - Storage piles shall be stabilized when inactive for more than 7 days by adequately wetting, establishing surface crusting, chemical dust suppressant, covering with tarps or vegetative cover, installation of wind barriers around three sides or open areas, or any measure as determined effective.
> - Visible track-out on paved public road must be cleaned using wet sweeping or HEPA filter equipped vacuum device within 24 hours.

As stated on page 3.10-6 of the Draft EIR, EBRPD's Master Plan outlines a potential new regional trail, from Dunsmuir Heights to Anthony Chabot/Lake Chabot Regional Parks. The new proposed trailhead for the Dunsmuir Heights Trail would be located on Covington Drive, north of Marlow Drive, 1.1 miles from Chabot Park. Due to its proximity to Chabot Park, completion of the Dunsmuir Heights Trail was evaluated as a potential mitigation measure, but discarded because it would not reduce the significant impact due to temporary trail closures to less than significant levels. The Dunsmuir Heights Trail would not provide effective alternative access to the Bass Cove Trail because it would be approximately 2.5 miles each way, unpaved, and with substantially more elevation gain than the 0.6 mile paved section of the West Shore trail (to the Bass Cove trail) that will be closed during construction. Nor would the Dunsmuir Heights Trail provide alternative access to the West Shore Trail.

Currently, it is anticipated that displaced Bass Cove Trail users would access the trail via the Clyde Woodridge Staging Area (rather than via the West Shore Trail through Chabot Park), which is approximately 4.4 miles from Chabot Park. From this staging area, trail users may access the Bass Cove Trail via an approximately 1.5 mile-long section of the Goldenrod Trail. Access to the Bass Cove Trail via the proposed Dunsmuir Heights Trail would be even longer at 2.5 miles. In addition, the Dunsmuir Heights Trail would not provide alternative access to the West Shore Trail because it would not circumvent the temporarily closed portion of the West Shore Trail. Therefore, the Dunsmuir Heights Trail would also not provide any mitigation for the temporary closure of a portion of the Lake Chabot Bicycle Loop Trail. Finally, construction of the Dunsmuir Heights Trail could result in additional and potentially long term effects to a variety of resources including biology, water quality, and traffic and is a separate standalone EBRPD project, unrelated to the proposed Chabot Dam Seismic Upgrade project.

The third paragraph on page 3.10-9 of the Draft EIR is revised as follows to clarify why it is not possible to divert the trail around the project work sites:

> Because of the location of the project work sites and potential safety risks, mitigation to open the trails on the weekends or during special events would not be possible, nor would it be possible to divert the trail around the project work sites. Due to topography, vegetation, and development, providing a temporary trail re-alignment around the project work limits is not feasible, either to connect the Chabot Park to the Bass Cove trail or West Shore Trail adjacent to Lake Chabot or to maintain the loop around Lake Chabot. Therefore, this impact would be *significant and unavoidable*.

2.1.3 Master Response 3 – Chabot Park Facilities

Master Response 3 is in response to comments CDPM-3, CSL-5, CSL-8, EJG-30, and EJG-31.

The facilities in question are located in the vicinity of the Park Stockpile, which could be used to temporarily stockpile excavated soil from the dam retrofit process (shown in Figures S-2, 2-9, and 2-11). In this event, some City-owned facilities could be removed prior to project construction. The City of San Leandro is the owner of the facilities, and under the terms of its lease with EBMUD, the City is required to maintain the facilities and is responsible for their replacement if they are damaged as a result of EBMUD projects, such as the proposed project. The City, as the owner and operator of the facilities, also is responsible for ensuring that they comply with the requirements of the Americans with Disabilities Act and other regulations.

The footprint of the Park Stockpile would not encroach on the northeast horseshoe pit, picnic tables, and BBQ on the east and south side of the park, jungle gym, restrooms, and bike racks. EBMUD would work with the City to plan facility reinstallation of any park equipment removed before construction, which could include the westside horseshoe pit, volleyball area, swing set, stage, rental picnic tables and BBQ area, and open turf area, consistent with the park's Master Plan.

If the Conventional Earthwork option is selected, the entire Park Stockpile would be used. If the CDSM option is selected, a smaller stockpile area is required and therefore the Park Stockpile footprint would be revised to avoid the swing set and stairs leading to the westside horseshoe pits. Under both options, facilities in the area of the Park Stockpile would be avoided to the extent feasible, to minimize potential impacts.

One of the comments states that relocation of the summer day camp may require temporary structures, temporary restrooms, and other temporary facilities and requested that EBMUD compensate the City

of San Leandro for costs associated with providing those facilities.Under the lease between EBMUD and the City of San Leandro, the burden for providing and paying for those facilities would fall on the City, and not EBMUD. The lease between EBMUD and the City of San Leandro recognizes that "[t]he rights of the Lessor in and to said real property and the right to construct and operate additions to said pumping plants, dam, spillways, and other structures and improvements to perform or conduct any work or operations of any nature whatever on said real property, shall at all times be paramount to any rights of the Lessee…" (EBMUD 2011). Specifically regarding facilities and equipment, the lease contains the following conditions under paragraph 14:

> It is further agreed that in the event Lessor shall at any time or times require the use of a portion or portions of said real property or shall perform any work requiring the reconstruction, relocation, alteration or changes in said picnic grounds or public park equipment, Lessor may at its option as an alternative to terminating all rights of Lessee hereunder permit Lessee to reconstruct, relocate or alter said picnic grounds and public park equipment. In the event Lessee opts to reconstruct, relocate or alter said picnic grounds and public park equipment, as the case may be, Lessee shall promptly notify Lessor of such intent to proceed and shall further proceed with such work and to complete the same within the time frame agreed by both parties. If Lessee does not exercise its option to reconstruct, relocate, or alter the picnic grounds, recreation facilities and equipment, this Lease shall terminate over those portions of said property affected.

Per the lease, the temporary structures, temporary restrooms, and other temporary facilities would fall under the conditions of the picnic grounds and public park equipment. Therefore, the City of San Leandro could opt to reconstruct, relocate, or alter the picnic grounds and park equipment.

In response to the comment's request for compensation, in accordance with Section 15064(e) of the State CEQA Guidelines, economic and social changes resulting from a project shall not be treated as significant effects on the environment. The fiscal effects related to closure of Chabot Park are not relevant to the CEQA analysis because there would be no substantial loss in operational funding or operational changes such that physical damage to the facilities would occur.

2.1.4 Master Response 4 – Lake Water Level

Master Response 4 is in response to comments EBRPD-2, EBRPD-4, EBRPD-5, and EBRPD-14.

The comments claim that the project description lacks necessary detail regarding the potential for the level of Chabot Lake to be lowered during project construction. Pursuant to Section 15124(c) of the State CEQA Guidelines, an EIR's project description must only include a "general description of the project's technical, economic, and environmental characteristics." A project description is adequate so long as it provides sufficient detail for a reader to comprehend the project's environmental impacts (*Dry Creek Citizens Coalition v. County of Tulare, (1999), 70 Cal.App.4th 20, 26*).

The project description complies with these requirements. As discussed on page 2-5 of the Draft EIR, the outlet works is operational at lake levels as low as 197 feet. Over the last 23 years, lake levels typically have ranged from 216 to 229 feet. In most years, lake levels range between 219 and 226 feet. In addition, the reservoir was operated at elevation 210 feet in 1980, for the construction of the spillway and dam modifications that year. As stated on page 2-18 of the Draft EIR, "Prior to excavation activities, the lake surface water level may need to be lowered to ensure stability of the dam. To lower the surface water level, blowoff releases to San Leandro Creek may be required and would take place in months where blowoffs typically take place.; The release rate and duration of release would depend on the amount of rainfall, lake levels prior to construction, and the required lake level during

construction. The lake would remain in service during construction activities, at a surface water level of 211 feet or greater, which may be lower than typical. The time frame for the surface water level to return to its typical operating range after construction would depend on the surface water level during construction and amount of rainfall. The proposed project has no impact on planned releases from Lake Chabot or the surface water operating range after construction is complete." The required maximum lake level during construction would be determined in conjunction with the Division of Safety of Dams by fall 2015, as part of the proposed project's final design. It is possible that no lowering below the lake's typical operating range would be required, or the required level could be above 211 feet.

The Draft EIR's description of potential lowering of lake level is sufficient and complies with CEQA's requirements. Nonetheless, new text following the third sentence in the second paragraph on page 2-18 of the Draft EIR is added as follows, to describe the duration, timing, and lake level in the event the lake would need to be lowered to an elevation of 211 feet as described in the Draft EIR, and to an elevation of 216 feet that corresponds to the level requested by EBRPD in 2012 for EBRPD's Bank Stabilization and Access Improvements construction performed that year:

> If the reservoir needs to be lowered to elevation 211 feet, then lowering would begin as early as December 2015. The reservoir would remain restricted for the period of construction. Based on historical hydrology, the reservoir would return to elevation 219 feet by winter 2016–2017 in a wet year (where 9 out of 10 years is drier), and by spring 2017 in a normal precipitation year. In a dry year (where one 1 of 10 years is drier), it would take more than 1 year to return to elevation 219 feet.
>
> If the reservoir needs to be lowered to elevation 216 feet, then lowering would begin as early as December 2015. The reservoir would remain restricted for the period of construction. Based on historical hydrology, the reservoir would return to elevation 219 feet by winter 2016–2017 in a wet year (where 9 out of 10 years is drier) or a normal precipitation year. In a dry year (where 1 out of 10 years is drier), it would take more than 1 year to return to elevation 219 feet.

The comment also claims that lowering the water level could affect fish and biotic resources. As described above and on page 2-5 of the Draft EIR, over the last 23 years the reservoir surface water level typically has ranged in elevation from 219 to 226 feet. At the proposed surface elevation of 216 feet, the reservoir volume would be approximately 90 percent of the reservoir volume at elevation 219 feet. At the lowest potential reduction in surface elevation of 211 feet, the reservoir volume would be approximately 75 percent of the reservoir volume at elevation 219 feet. The anticipated change in volume to the lake is not expected to adversely affect water quality or fish species in the lake. Similar lake volume changes that have occurred in the past have had no significant adverse impact on water quality or fish species in the lake.

Lowering the reservoir to elevation 211 is not anticipated to affect available shallow water habitat. Two special-status species potentially that could be affected by any change to the lake level include the bald eagle and the western pond turtle. The bald eagles that use the lake as a food source could benefit from more exposed shallow water areas and potentially more prey availability. The western pond turtle may temporarily shift basking locations; however, this is not anticipated to have an adverse effect on the species.

With regard to potential impacts on Lake Chabot as a water-oriented recreational facility, refer to Response EBRPD-15.

2.1.5 Master Response 5 – Potential Impacts to San Leandro Creek

Master Response 5 is in response to comment EBWC-1.

The comment states: "[r]eports by Leidy and others, show populations of the native Rainbow Trout/Steelhead with DNA links to the upstream population protected on the National Historic Register." As described on page 3.4-7 of the Draft EIR, "Steelhead and/or rainbow trout have been observed in the lower section of San Leandro Creek during numerous surveys from 1995 through 2011 (EBMUD unpublished fisheries survey data for San Leandro Creek). However, it is uncertain whether steelhead (*Oncorhynchus mykiss*), rainbow trout (*Oncorhynchus mykiss*), or both were observed because of difficulties in differentiating each form of *O. mykiss* species." Numerous observations of *O. mykiss* have been made below Chabot Dam (Leidy et al. 2005), but the most recent documentation of a steelhead run was in 1975 (Curtis and Scoppettone 1975). Steelhead is protected under the federal Endangered Species Act (ESA) and is regulated by the National Marine Fisheries Service (NMFS). Rainbow trout are not regulated by NMFS, and are not protected under the ESA. The rainbow trout population above Chabot dam is not protected and is not regulated by NMFS. No protection of fish or wildlife species exists in connection with the National Historic Register.

The comment states that the proposed project would negatively affect biologic resources, hydrology and water quality, and geology and soils. The Draft EIR evaluated the potential physical impacts on these resource areas and that discussion is briefly summarized in the following text.

Biologic Resources

The comment claims that the Draft EIR does not provide sufficient mitigation for potential impacts on steelhead in San Leandro Creek. Impacts on steelhead were analyzed on pages 3.4-34, 3.4-42, and 3.4-44 of the Draft EIR. As explained therein, the CDSM and Conventional Earthwork options potentially could affect steelhead in San Leandro Creek through temporary increases in sedimentation and turbidity or through the release of contaminants into waterways. These impacts would be minimized by implementation of Mitigation Measures BR-1.4, HY-1.1, HY-1.2 and HZ-1.1. These mitigation measures address potential project sources of pollution that could affect steelhead in San Leandro Creek. EBMUD has determined that implementing these mitigation measures would be sufficient to ensure that no significant impacts on the species would occur.

If the Lower Haul Route is used by the proposed project, the associated impacts on riparian vegetation would be temporary (see page 3.4-43 of the Draft EIR). A free-spanning bridge would be installed above the ordinary high water mark of San Leandro Creek, to avoid any direct impacts on the stream channel (see page 3.4-43 of the Draft EIR). As described on pages 3.4-46 to 3.4-47 of the Draft EIR, potentially significant impacts on riparian vegetation would be reduced to a less-than-significant level with implementation of Mitigation Measures BR-2.1 and BR-2.2, and these areas would be restored to pre-project or better conditions after project construction is completed, in accordance with the permit obtained from the California Department of Fish and Wildlife (CDFW) (the regulating agency).

Hydrology and Water Quality

Temporary hydrology and water quality impacts were identified under Impact HY-1 on page 3.11-11 of the Draft EIR. A potentially significant impact related to releasing sediment into San Leandro Creek

was identified. This impact would be reduced to a less-than-significant level with implementation of Mitigation Measures HY-1.1, 1.2, 1.3, 1.4, and 1.5, which would require best management practices.

Geology and Soils

Potential impacts on geology and soils are discussed in Section 3.3 of the Draft EIR. A potentially significant impact could occur from ground-disturbing project construction activities, resulting in soil erosion that could lead to sedimentation in the surrounding environment and waterways. However, as discussed, implementation of Mitigation Measures GE-2.1 and GE-2.2 would reduce this impact to a less-than-significant level by including provisions for topsoil and soil stockpiling as well as site restoration.

Under Section 15126.4 of the State CEQA Guidelines, identification of feasible and enforceable mitigation measures are required only to avoid or reduce the magnitude of potentially significant impacts of a proposed project. The Draft EIR concluded that the proposed project would result in less-than-significant impacts on biological resources, hydrology and water quality, and geology and soils. Additional mitigation measures, such as ecological restoration, are not warranted. The Draft EIR identified mitigation measures in accordance with Section 15126.4 of the State CEQA Guidelines, to reduce potentially significant impacts to a less-than-significant level. Therefore, the Draft EIR meets the standards established in the State CEQA Guidelines, and no additional mitigation measures need to be identified beyond those for biological resources, hydrology and water quality, and geology and soils discussed in the Draft EIR or these Responses to Comments.

Furthermore, in response to comments regarding fish passage flows, see Response FSLC-6.

2.2 Chabot Dam Public Meeting Comments (CDPM)

The following text reflects comments stated or questions raised at the Chabot Dam Seismic Upgrade Project Draft EIR public meeting on January 16, 2014. These comments were not transcribed verbatim, but rather they provide a representation of those comments and questions received.

Comment CDPM-1

Will there be enough water in Lake Chabot to sustain typical creek flows throughout construction if you are going to lower the lake below its typical operating range? Also, what if EBMUD utilizes Lake Chabot water to respond to a drought during construction? In the event of a water shortage in Lake Chabot, what is the priority between drought response, water for the golf courses, and creek flows?

Comment CDPM-2

In Mitigation Measure NO-1.1, the Draft EIR says "noise-generating activities greater than 90dBA will be limited to 8:00 a.m. until 4:00 p.m." Where is this noise threshold measured?

Comment CDPM-3

The Draft EIR states "equipment and facilities removed at Chabot Park as a result of project construction would be temporarily stored and reinstalled at their original locations at end of construction." If codes have changed since the equipment was originally installed, when reinstalling the equipment, is EBMUD required to comply with new codes (the American with Disabilities Act or other)? (*Evelyn and Juan Gonzales*)

Chabot Park equipment and facilities would be removed and then reinstalled at end of project. My concern is that when you remove equipment you must reinstall by following the new state codes. The old playground equipment may not meet the new codes. If playground equipment or bathroom facilities need to be updated before they can be replaced, would EBMUD cover required upgrades?

Comment CDPM-4

The Draft EIR focuses on impacts on protected species. What about other wildlife, such as frogs and deer? Would you mitigate non-protected species? If protected wildlife is found before or during construction, would EBMUD mitigate for this species?

Comment CDPM-5

A den of San Joaquin kit foxes has been observed on the north side of the dam but is not mentioned in the Draft EIR.

Comment CDPM-6

If construction activities displace wildlife into the neighborhood, would EBMUD help relocate this wildlife?

Comment CDPM-7

What about the Bald Eagles that have been observed in the area? The Draft EIR states, "No bald eagles have been observed within the project footprint." What is the basis for this statement? Is it based solely on your biologist's observations?

Comment CDPM-8

The U.S. Geological Survey surveys benchmarks within the construction site to monitor the movement of the Hayward fault. I spoke to them, and they are not aware of your project. How are you coordinating with them?

Comment CDPM-9

The Draft EIR states that the main gate would be opened by EBMUD's contractor 30 minutes before the start of construction, to avoid potential vehicle queues on neighborhood streets. That is not early enough because many workers would be commuting to the construction site from far away and may arrive early. Consider opening the gate 1 hour before construction begins.

Comment CDPM-10

Because the CDSM method would require cement trucks, does that mean this option would generate more truck traffic through the neighborhood?

Comment CDPM-11

Can the public review the responses to comments before they are published?

Comment CDPM-12

The opening of the new Kaiser facility in San Leandro will cause impacts on traffic. Is it accounted for in the cumulative impacts section of the Draft EIR?

Comment CDPM-13

Did EBMUD consider moving the pavilion to a different location to preserve it?

Comment CDPM-14

Site security at night would be an issue because homeless people sleep on the site. What would you do for site security?

Comment CDPM-15

What if a record high rainfall occurs during construction? How would the high volume of water be managed? Would construction be delayed?

2.3 Chabot Dam Public Meeting Responses

Response CDPM-1

Based on historical divisions from Chabot Reservoir during the 1976–1977 drought, enough water would remain in Lake Chabot to sustain the 80 gallon per minute creek flow and the irrigation demand for the two golf courses even if the lake is lowered to elevation 211 feet. EBMUD cannot speculate about its ability to provide creek flow during a future severe drought, because the decision would need to be made based on the facts that exist during such an event.

EBMUD has adopted an Urban Water Management Plan (UWMP) and Water Conservation Master Plan (WCMP). The UWMP serves as the long-range planning document for EBMUD, by assessing current and projected water usage, water supply planning, and current and projected water conservation and recycling programs. The WCMP tiers off of the UWMP and documents the planned water conservation efforts over a 10-year period that would contribute to EBMUD's long-term water supply reliability and goals. The WCMP also includes a drought management program (DMP), designed to minimize drought impacts on EBMUD customers while continuing to meet stream flow requirements and obligations to downstream water users. In conjunction with EBMUD Policy 9.03, the DMP provides guidelines to manage demand.

Response CDPM-2

The noise threshold would be measured within 50 feet of the noise source, as noted in Table 3.9-4 of the Draft EIR. For the proposed project, only impact construction using a hydraulic backhoe could be expected to exceed this threshold.

Response CDPM-3

Refer to Master Response 3.

Response CDPM-4

Common wildlife and potential impacts on the movement of these species are discussed on pages 3.4-10 and 3.4-32 of the Draft EIR. As the Draft EIR states, the project is not expected to result in significant impacts on the movement of common species. The Draft EIR notes that "[t]he project area is located on the southern edge of Lake Chabot Regional Park, not within the center of critical wildlife movement corridors; therefore, it would not eliminate opportunities for movement or dispersal. Construction would result in temporary displacement of some native and resident wildlife. However, those individuals would move into surrounding areas within Lake Chabot Regional Park and EBMUD watershed lands to find shelter and foraging opportunities, and repopulate the area upon completion of construction activities." Because no significant impacts on non-protected species would occur, no mitigation is required.

No special-status species were observed during surveys of the project site. No protected wildlife is expected to be found before or during construction. However, if protected wildlife is found, appropriate measures, including implementation of avoidance zones and/or consultation with the responsible resource agency (CDFW and/or USFWS), would occur (see Mitigation Measures BR-1.1, 1.2, 1.7, 1.8, and 1.9 in the Draft EIR). Additional mitigation measures that may be required by of these resource agencies would be implemented by EBMUD, in coordination with that agency. Impacts on habitat associated with the proposed project would be temporary, and disturbed areas would be returned to pre-project conditions after construction is completed.

Response CDPM-5

The project site is outside the historic and current range of San Joaquin kit fox (*Vulpes macrotis mutica*), federally listed Endangered and state-listed Threatened. In addition, the project site is not considered suitable habitat for the San Joaquin kit fox. Misidentification of San Joaquin kit is common. San Joaquin kit fox is noticeably smaller than other canid species that may occur at the project site, in particular the coyote (*Canis latrans*), and red fox (*V. vulpes*). The reported siting on the north side of the dam likely was a misidentification of this species.

Historically, San Joaquin kit fox occurred extensively throughout California's Central Valley and parts of the Salinas and Santa Clara valleys. Kit fox currently inhabit some areas of suitable habitat on the San Joaquin Valley floor and in the surrounding foothills of the coastal ranges and Sierra Nevada and Tehachapi mountains, from southern Kern County north to Contra Costa, Alameda, and San Joaquin counties on the west, and near La Grange, Stanislaus County on the east side of the Valley and some of the larger scattered islands of natural land on the Valley floor in Kern, Tulare, Kings, Fresno, Madera, and Merced counties (USFWS 1998). San Joaquin kit fox sightings in the most northern portion of its range are rare, especially in the recent past. The locations of source populations for the northern range are not known (H.T. Harvey and Associates 1997). Known San Joaquin kit fox occurrences from the CNDDB closest to the project site are all located east of Interstate 680, approximately 11.5, 12, and 13 miles away from the site. These occurrences were all recorded over 20 years ago. Sources of information addressing the current status of this species include:

- H.T. Harvey & Associates. 1997 (March 13). *Distribution of the San Joaquin Kit Fox in the North Part of its Range*. Project No. 673.11.

- U.S. Fish and Wildlife Service (USFWS). 1998. *Recovery Plan for Upland Species of the San Joaquin Valley, California*. Region 1: Portland, OR. Available: http://ecos.fws.gov/docs/recovery_plan/980930a.pdf.

It would be extremely unlikely that a San Joaquin kit fox would visit the project area, therefore no impact to this species is expected and no mitigation is required. However, the Draft EIR includes mitigation measures so that any special-status species observed at the project site would be protected, and thus no significant impacts would occur. For example, Mitigation Measure BR-1.2 would require a qualified wildlife biologist to be present at all times during initial ground disturbance or vegetation removal activities. The biologist would have the authority to stop work if a listed species was encountered. This mitigation measure would protect any special-status species that may be present at the site during construction. In addition, the temporary exclusion fencing required by Mitigation Measure BR-1.3 would deter special-status species from entering active work areas. Mitigation Measure BR-1.5 would reduce the risk of a vehicle collision with the species by requiring workers to limit vehicle travel to speeds of 15 miles per hour or less. In addition, completion of pre-construction surveys in compliance with Mitigation Measures BR-1.7 and BR-1.9 would help identify any special-status species in the area through incidental observation.

Response CDPM-6

The construction footprints for the proposed project are relatively small when compared to the available open space adjacent to and surrounding the project site. Chabot Park and the surrounding open space provide better habitat than nearby residential areas. As described on page 3.4-32 of the Draft EIR, displaced wildlife are expected to move to adjacent, open space areas. For adjacent neighborhoods to experience a substantial increase in wildlife activity would be very unlikely. Wildlife populations fluctuate year-to-year, for reasons unrelated to any projects. Increases or decreases in neighborhood wildlife would most likely be associated with these fluctuations. Wildlife, such as deer and turkeys, already are attracted to residential areas.

Wildlife found in the neighborhood during project construction would be treated the same as if encountered before or after construction. Concerns relating to wildlife in residential neighborhoods would be directed to the Alameda County Vector Control Services at (510) 567-6800, or to its website at www.acvcsd.org. EBMUD does not relocate wildlife. General concerns relating to the proposed project during construction would be referred to the EBMUD Community Affairs Representative, with updated contact information provided on EBMUD's website at www.ebmud.com, under Project Updates/Construction Projects/Chabot Dam Upgrade.

Response CDPM-7

The statement on page 3.4-31 of the Draft EIR that "No bald eagles have been observed within the project footprint" is based on biologist observations during field surveys (described on page 3.4-2 of the Draft EIR) as well as from statements in all resources consulted for preparation of Section 3.4, Biological Resources. These resources are listed on pages 3.4-1 through 3.4-2 of the Draft EIR and includes the following other published and unpublished data and reports provided by EBMUD (including a fish habitat assessment for San Leandro Creek, fish and wildlife survey and occurrence data):

- Chabot Dam Seismic Remediation Project: Initial Biological Resources Assessment
- USFWS quadrangle species lists for the Oakland East, Las Trampas Ridge, San Leandro, and Hayward quadrangles
- California Natural Diversity Database (CNDDB)
- State and Federally Listed Endangered and Threatened Animals of California
- CNDDB Special Animals List

The following spatial data resources were used to create the figures in Section 3.4, Biological Resources of the Draft EIR:

- National Agriculture Imagery Program aerial imagery
- California Natural Diversity Database species occurrence locations

The Draft EIR identifies the information resources that were consulted in its preparation. Although bald eagles have not been observed within the project footprint, as stated on page 3.4-17 of the Draft EIR, a nesting pair is known to be located at Lake Chabot. "In 2012, a pair of nesting bald eagles were found by EBRPD in a eucalyptus tree near the edge of the lake in its northeastern-most arm, called Bass Cove. This occurrence is approximately 0.25 mile from the project area boundary. Although bald eagles have been seen at the lake in previous years, this is the first nesting occurrence. Repeat use of nesting sites is common. A moderate potential exists for this species to occur in the project area." Of the seven project components, only the outlet works has the potential for a significant impact on the bald eagle. Mitigation Measures BR-1.4, BR-1.6, and BR-1.7 would be implemented to reduce the potentially significant impact on bald eagles to a less-than-significant level.

Response CDPM-8

EBMUD has contacted the U.S. Geological Survey (USGS) and has provided them with the link to the Draft EIR on the District's website. The USGS scientist who is monitoring the survey points has been contacted and is aware of the proposed project. USGS would be responsible for maintaining the survey points and reinstalling them after construction. USGS would read the markers before construction and re-install the markers after project completion.

Response CDPM-9

The potential for traffic impacts to result from construction traffic was considered on pages 3.6-16 through 3.6-21 of the Draft EIR. However, the proposed project would not result in a substantial reduction in level of service (LOS), and Mitigation Measure TR-1.1 would be implemented so that traffic impacts would be less that significant. In addition, the Draft EIR text has been revised to change the gate opening time. The text from the first full paragraph on page 2-34 of the Draft EIR is revised as follows:

> The main gate would be opened by EBMUD's contractor 60~~30~~ minutes before the start of construction to avoid potential vehicle queues on the neighborhood streets.

The text of the third sentence in the first paragraph on page 3.6-19 of the Draft EIR is revised as follows:

> As described in Section 2.11.4, Access Modifications, the park gate would be open 60~~30~~ minutes before the start of construction to further eliminate any worker vehicle backup on the neighborhood street.

The text of the second to last sentence under "Parking Use" on page 3.6-21 of the Draft EIR is revised as follows:

> To allow workers to park on site, the main gate will be opened 60~~30~~ minutes before the start of construction to avoid potential worker vehicle queues on neighborhood streets.

The text of the second sentence in the first paragraph on page 3.9-9 of the Draft EIR is revised as follows:

> As stated in Section 2.10, Environmental Controls, the construction specifications would require site access to be open 60~~30~~ minutes before the start of the work shift.

Response CDPM-10

The proposed project would generate different types of vehicle trips, such as truck trips for the delivery of equipment and materials, and for hauling debris, and private vehicle trips by construction workers. The cement deep soil mixing option would generate less truck trips but more worker trips than the Conventional Earthwork option. Table 3.6-4 in the Draft EIR shows that the scenario with the outlet works done before the Conventional Earthwork option generates the most peak daily truck trips (76 material + 8 equipment + 36 hauling trips = 120 truck trips). This option also would generate the most peak daily material delivery trips. Cement trucks are classified as material delivery trips on page 3.6-10 of the Draft EIR.

The Draft EIR analyzed the scenario with the most intense traffic impacts (Draft EIR page 3.6-11), where the total vehicle trip generation during the peak vehicle period would be the greatest, regardless of its actual vehicle composition (e.g. construction worker, material delivery, equipment delivery, and hauling truck trips). This is because this scenario would have the highest peak volume of traffic and would cause the greatest potential traffic impact.

The analysis found that the scenario with the outlet works done concurrently with CDSM construction over day and night shifts would have the highest total vehicle trip generation during the peak vehicle period. This scenario would generate 85 truck trips and 198 private vehicle trips, for a total of 283 daily vehicle trips.

Figure 3.6-4 in the Draft EIR shows that the peak vehicle trip period would last for approximately 8 weeks, not the entire construction duration, although the discussion on page 3.6-11 of the Draft EIR states that the vehicle trips generated during the peak period were used for the analysis to provide a conservative estimate.

Response CDPM-11

Pursuant to Section 15088 of the State CEQA Guidelines (Evaluation of and Response to Comments), a lead agency is only required to provide written responses to a public agency on comments made by that public agency at least 10 days before certifying the EIR.

EBMUD's practice is to prepare a Response to Comments document that includes all comments submitted and a reasoned response to each comment, as well as modifications to the Draft EIR and MMRP if warranted as a result of responses to comments. An electronic version of the Response to Comments document is posted on the District's Internet website, and public agencies and the community members on the project's mailing list are notified of the posting at least 10 days before EIR certification. Thus, any interested party will have an opportunity to review the Response to Comments document and all comments submitted before the Board of Directors' certification determination. This practice is more comprehensive and inclusive than that required by the State CEQA Guidelines.

Response CDPM-12

The proposed Kaiser Permanente San Leandro Medical Center (Kaiser Project) is not expected to generate a substantial number of additional new trips on roadways that would be affected by the Chabot Dam project or as analyzed in the Draft EIR.

The new Kaiser Permanente San Leandro Medical Center is expected to be open and in operation by April 2014. However, the same population in the existing Hayward Medical Center would shift to the new Kaiser Permanente location, and thus would not add any new trips to the regional roadways. The new Kaiser Permanente location is approximately 4 miles west of the project site, and a small number of vehicle trips to the new Kaiser Permanente potentially may use project access routes. However, these trips would be minimal and would not substantially degrade the roadway operating conditions.

Response CDPM-13

Refer to Master Response 1.

Response CDPM-14

Site security would be addressed in EBMUD's Master Construction Specifications, which would be used when implementing the proposed project. EBMUD's specifications would state that security is the contractor's responsibility, and that the contractor must have a security monitor on site during working hours. Security is expected to include fences and gates, and could include a security service for non-working hours.

Response CDPM-15

As stated on page 2-5 in Section 2.2.2 of the Draft EIR, "In the event that the reservoir needs to be lowered, such as in anticipation of large rainfall events, blowoff releases can be up to 67,000 gallons per minute (150 cubic feet per second). The term "blowoff" refers to high volume releases from the dam discharge outlet. Such releases typically occur intermittently from the fall through spring; normal releases are maintained at all other times." As stated on page 2-39 in Section 2.11.12 of the Draft EIR, "Although not anticipated during construction, if blowoff

releases are necessary, the contractor would temporarily suspend work activities during the blowoff."

Work at the Dam

Under both construction options, work at the dam is scheduled to occur during the dry season, during which reservoir releases due to excessive rainfall would be unlikely. Therefore, rainfall events would be unlikely to delay construction at the dam.

Work at the Outlet Works

Under the CDSM option, construction at the outlet works would occur in the dry season; therefore, rainfall events would be unlikely to delay construction. Under the Conventional Earthwork option, work at the outlet works would occur in winter/spring, and therefore potentially could experience a delay because of rainfall events. If these rainfall events occurred, the overall construction schedule is not expected to be extended because the outlet works construction task would have 5 weeks of schedule contingency, as stated on page 2-23 of the Draft EIR, "to ensure that the dewatering and outlet works retrofit tasks are completed before the earthwork begins."

2.4 State Clearinghouse and Planning Unit, Governor's Office of Planning and Research

Comment Letter SCH

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit

Edmund G. Brown Jr.
Governor

Ken Alex
Director

WATER DISTRIBUTION
FEB 10 2014
PLANNING DIVISION

February 5, 2014

Bill Maggiore
East Bay Municipal Utility District
375 Eleventh Street, MS 701
Oakland, CA 94607-4240

Subject: Chabot Dam Seismic Upgrade Project
SCH#: 2013042075

Dear Bill Maggiore:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. The review period closed on February 4, 2014, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. **SCH-1**

Please call the State Clearinghouse at (916) 445 0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Scott Morgan
Director, State Clearinghouse

1400 TENTH STREET P.O. BOX 3044 SACRAMENTO, CALIFORNIA 95812-3044
TEL (916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

Document Details Report
State Clearinghouse Data Base

SCH# 2013042075
Project Title Chabot Dam Seismic Upgrade Project
Lead Agency East Bay Municipal Utility District

Type EIR Draft EIR

Description Note: Extended per lead

The proposed project involves improving the Chabot Dam embankment toe through conventional earthwork or cement deep soil mixing (CDSM). The outlet works would be improved by re-lining the vertical brick-lined shaft that connects the sluice gate control to the outlet pipes, moving the valves and controls from the existing tower to the vertical shaft, relining or installing new outlet pipes from the vertical shaft to the reservoir, filling the tower with low strength flowable fill, retrofitting the tower walls, and removing the pavilion. Excavated materials would be stockpiled at the Filter Pond Stockpile and/or Park Stockpile, which are located at the former filter ponds and Chabot Park, respectively. Two potential haul routes are proposed within the project site: Upper Haul Route and the Lower Haul Route. Following the Chabot Dam seismic upgrade activities, the footprint of the project area would be returned to existing conditions.

Lead Agency Contact

Name Bill Maggiore
Agency East Bay Municipal Utility District
Phone 510 287 1021 **Fax**
email
Address 375 Eleventh Street, MS 701
City Oakland **State** CA **Zip** 94607-4240

Project Location

County Alameda
City San Leandro, Oakland
Region
Lat / Long 37° 43' 44" N / 122° 7' 22" W
Cross Streets Estudillo Avenue, San Leandro
Parcel No. Various
Township 2S **Range** 2W **Section** **Base**

Proximity to:

Highways I-580
Airports No
Railways No
Waterways San Leandro Creek
Schools Several
Land Use Various

Project Issues Air Quality; Archaeologic-Historic; Biological Resources; Flood Plain/Flooding; Geologic/Seismic; Noise; Public Services; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Wetland/Riparian; Growth Inducing; Cumulative Effects; Aesthetic/Visual; Drainage/Absorption; Minerals; Recreation/Parks; Soil Erosion/Compaction/Grading; Water Supply

Reviewing Agencies Resources Agency; Department of Fish and Wildlife, Region 3; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; Office of Emergency Services, California; California Highway Patrol; Caltrans, District 4; Air Resources Board; State Water Resources Control Board, Divison of Financial Assistance; Regional Water Quality Control Board, Region 2; Native American Heritage Commission

Document Details Report
State Clearinghouse Data Base

Date Received 12/05/2013 ***Start of Review*** 12/05/2013 ***End of Review*** 02/04/2014

Response SCH-1

The comment acknowledges that EBMUD has complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to CEQA. The comment is informational, and no further response is required.

2.5 East Bay Regional Park District

Comment Letter EBRPD

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February 4, 2014

Bill Maggiore
Senior Civil Engineer
MS #701
375 Eleventh Stree
Oakland, CA 94607-4240

Sent via e-mail to
Chabot.Dam.EIR@ebmud.com
And regular mail
On February 4, 2014

RE: Chabot Dam Seismic Upgrade Project - Draft Environmental Impact Report

Dear Mr. Maggiore,

The East Bay Regional Park District ("District") has reviewed the Draft Environmental Impact Report (DEIR) for the Proposed Chabot Dam Seismic Upgrade Project ("Project") proposed by the East Bay Municipal Utilities District (EBMUD). The proposed project is adjacent to the District's Lake Chabot Regional Park and the District's West Shore Trail and Bass Cove trails traverse the Project site.

The District has a long term commitment to protecting and maintaining open space in Alameda County and providing public access and recreation opportunities. The District operates Lake Chabot Regional Park which will be directly impacted by the proposed project. Lake Chabot Regional Park offers over 20 miles of trails and fishing and boating on the 315 acre lake. The lake and facilities are leased to the District for recreational use by EBMUD.

The project proposes closure of a segment of the West Shore Trail, part of the larger 12.4 miles Lake Chabot loop trail, and the Bass Cove trail for a period of 6 to 14 months. The DEIR identifies these impacts as "significant and unavoidable" with no mitigation offered to minimize impacts and no analysis of potential alternatives to avoid project impacts. The project would also result in the closure of Chabot Park, an important staging area and access route to the West Shore and Bass Cove trails, operated by the City of San Leandro. EBRPD-1

As recognized by the DEIR, the closure of these facilities will result in increased usage at neighborhood and regional parks and that the proposed project will result in significant and unavoidable recreation impacts. EBRPD-1

Additionally, the project identifies the potential need to lower the surface water level at Lake Chabot. Lowering of the lakes surface water level will result in a direct recreational and operational impact on the District's marina operations at Lake Chabot, as well as potential for biologic and water quality impacts to the lake's fisheries. EBRPD-2

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The District appreciates the necessity of the proposed seismic upgrade project at Chabot Dam. However, the DEIR fails to explore any potential alternatives to full closure of the West Shore and Bass Cove trails, provides no analysis of the potential for temporary trail alignments or partial (e.g. weekend) use, and offers no mitigation to attempt to minimize the impacts of closure of these trails or Chabot Park. Additionally, analysis of the potential impacts associated with lowering of the water level at the lake is insufficient and additional mitigation should be explored. EBRPD-3

Detailed comments on the DEIR are attached. We look forward to working with EBMUD and the City of San Leandro in addressing these impacts in a manner that supports the seismic upgrade project while ensuring the impacts to the Lake Chabot environment and recreating public are minimized to the maximum extent feasible.

Thank you for the opportunity to provide comments on this project. Please feel free to contact me at (510) 544-2623, or bholt@ebparks.org, should you have any questions.

Respectfully,

Brian W. Holt
Senior Planner

Cc: Doug Siden – Board of Directors
Bob Nisbet – Asst. General Manager
Anne Scheer – Chief, Park Operations
Warren Schultz – Lakes Unit Manager
Tom Liao – City of San Leandro

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East Bay Regional Park District
Comments on the Lake Chabot Dam Seismic Upgrade Project
February 4, 2014

The Draft EIR Fails to Comply with CEQA

We submit this letter to express our strong concern that the DEIR does not comply with the requirements of the California Environmental Quality Act ("CEQA"), Public Resources Code Section 21000 *et seq.*, and the CEQA Guidelines, California Code of Regulations, title 14, Section 15000 *et seq.* ("CEQA Guidelines"). The following discusses the inadequacies of the DEIR including lack of supporting data and analysis to support conclusory statements, lack of analysis regarding impacts of displacing park users, and the lack of consideration of project alternatives or suitable mitigation.

CEQA requires that the EIR provide sufficient analysis and detail about the Project and environmental impacts of the proposed project to enable informed decision-making by the East Bay Municipal Utility District (EBMUD) Board and informed participation by the public. See CEQA Guidelines § 15151; *Kings County Farm Bureau v. City of Hanford*, 221 Cal.App.3d 692 (1990). Both the public and decision-makers need to fully understand the implications of the choices presented by the Project, mitigation measures and alternatives. *See Laurel Heights Improvement Ass'n v. Regents of University of California*, 6 Cal.4th 1112, 1123 (1993). In this case, as described in detail below, the DEIR does not provide the legally required information. Important information about public use and access, details on lowering of the water level of Lake Chabot, loss of operating revenue to the Park District to fund park operations, impacts to other facilities and the Lake Chabot marina, and hydrology and biology impacts to Lake Chabot Regional Park is omitted, inaccurate, or deferred until a later date, all in violation of CEQA.

EBRPD-4

Project Description is Incomplete

The DEIR frequently alludes to the potential need to lower the water level at Lake Chabot to accommodate construction activities, but fails to provide any detailed description of the duration, timing, or extent of the lowering. Lowering of the water level would have direct impacts on the operation of Lake Chabot as a water-oriented recreational facility. Additionally, lowering of the lake's water level could have potential impacts on fisheries and other biologic resources within the lake. The lack of a complete project description that includes all relevant details regarding the duration, timing, and extent

EBRPD-5

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of the lowering of the water level deprives decision makers and stakeholders the ability to fully analyze and consider all of the projects effects on park operations and the lake's ecology. EBRPD-5 cont.

The DEIR fails to address or mitigate significant impacts to Lake Chabot Regional Park

The primary purpose of an EIR is to "inform the public and its responsible officials of the environmental consequences of their decisions before they are made." *Laurel Heights Improvement Ass'n v. Regents of the Univ. of Cal.*, 6 Cal.4th 1112, 1123 (1993). Accordingly, an EIR must contain facts and analysis regarding a proposed project's environmental impacts, not just an agency's conclusions. *See Citizens of Goleta Valley v. Board of Supervisors*, 52 Cal.3d 553, 568 (1990). Throughout the DEIR, conclusions regarding the project's environmental impacts are not supported with adequate analysis. Also, the DEIR fails to identify adequate mitigation for the project's significant impacts. These approaches violate CEQA. EBRPD-6

1. Public Use and Access

The DEIR acknowledges that approximately 30 percent of trail users on West Shore Trail, approximately 1,000 people per month, and 20 percent of the Bass Cove Trail users, approximately 600 people per month, originate from Chabot Park. This access would be closed during the duration of the project and these park users would be displaced and required to utilize other facilities and access Lake Chabot Regional Park from other locations.

The closure of a portion of the West Shore Trail and Bass Cove Trail would also impact a number of special events that occur at Lake Chabot Regional Park. In 2013, 16 running events were held at Lake Chabot Regional Park that included over 7,000 participants. Many of these events support important charities. Additionally, fee's generated through special event permits are important sources of revenue to support District operations. Closure of trails in a manner that would impede these events needs to be evaluated in the DEIR and suitable mitigation identified to offset the loss of revenue to the District and need to cancel or modify special events. Additionally, the District will need to be provided adequate notice of the time and duration of any closures so as to avoid any scheduling of events during the construction period should a suitable alternative or limited access arrangement not be identified. EBRPD-7 EBRPD-8

The DEIR concludes that these recreation impacts are "significant and unavoidable" due to the location of the project work sites and potential safety risks. The "significant and unavoidable" determination is a conclusory determination that is not supported by data or analysis in the DEIR. EBRPD-9

Additionally, the DEIR fails to provide any analysis of potential mitigation measures. The DEIR needs to analyze and include mitigation measures suitable to reduce the impact to the maximum extent feasible. Such mitigation may include temporary access to an alternative trail alignment, access during non- EBRPD-10

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construction times (e.g. weekends), or measures at other facilities to address the impacts of increased use from displaced park users. EBRPD-10 cont.

2. *Traffic and Circulation*

The DEIR states that with the closure of Chabot Park it is anticipated that most bicyclists would be likely to use the existing bike lanes along Fairmont Drive to access the southern portion of Lake Chabot Regional Park. This conclusory statement is provided in the DEIR with no analysis or supporting data. EBRPD-11

Fairmont Drive is located approximately two miles south of Estudillo Avenue. It is unlikely that many cyclists wishing to access Lake Chabot Regional Park would opt to ride two miles south to Fairmont Drive on city streets. It is more likely that many cyclists will continue on Lake Chabot Road beyond Chabot Park to access Lake Chabot Regional Park at the main entrance. Lake Chabot Road between Estudillo Avenue and its intersection with Fairmont Drive is a two lane road with limited shoulders and no bike lanes. The DEIR needs to analyze the displacement of cyclists from Chabot Park and potential safety impacts of increased cycling use on Lake Chabot Road. EBRPD-12

The displacement of approximately 1,600 people per month would result in significant traffic and circulation impacts on nearby neighborhood and regional park facilities. Users wishing to access the West Shore Trail and the Lake Chabot Loop Trail would likely access Lake Chabot Regional Park from the main entrance located on Lake Chabot Road. The main entrance experiences heavy use during all weekends throughout the year, and particularly high use during summer months. Many users opt to park on Lake Chabot Road and walk into the park. Parking within the main parking lot and on-street parking lots are often at capacity during peak use times and would be unable to accommodate the displaced users, The DEIR provides no analysis of traffic, circulation, and parking impacts of displaced users and provides no suitable mitigation to reduce impacts on nearby facilities to the maximum extent feasible. EBRPD-13

3. *Hydrology and Biology*

The DEIR states that the Lake Chabot water level will be drawn down during construction activities. However, no description of the duration, timing, and extent of the lowering of the lake level is included. Fluctuations in the lake level would have the potential to result in significant impacts to the lakes water quality and fisheries. The Hydrology and Biologic Resources section of the DEIR are completely silent on the potential effects of lowering of the lakes water level. Disclosure of the duration, timing, and extent of fluctuations in the lake level and analysis of these effects need to be included in order to assess the water quality and biologic impacts. EBRPD-14

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4. Marina Operations

Changes in the lake level of Lake Chabot has the potential to result in significant impacts to the marina operated by the District. A prolonged lowering of the lake level would have potential operational impacts on the marina and direct financial impacts to the concessionaire that operates the café and boat rental at the site. Loss of access to the docks at the marina and the loss of boat rentals would result in a significant reduction in operating funds to the District and result in a significant loss of recreation opportunities to those wishing to utilize Lake Chabot for boating and fishing. Additionally, physical impacts to the fishing piers and marina may occur if the lake is drawn down for an extended period of time and these fixed infrastructure items are allowed to sit on dry land for an extended period of time. The DEIR needs to assess potential impacts to the marina at Lake Chabot resulting from fluctuations in the lake level and provide suitable mitigation to the maximum extent feasible.

EBRPD-15

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Response EBRPD-1

Refer to Master Response 2 regarding the trail closures, and to Response EJG-29 regarding other recreation locations throughout the area.

Response EBRPD-2

Refer to Master Response 4 regarding the lake water level, and to Response EBRPD-15 regarding impacts on the marina operations.

Response EBRPD-3

Refer to Master Response 2.

Response EBRPD-4

The comment states that the Draft EIR did not provide sufficient detail about the project, lacked supporting data and analysis to support conclusory statements, lack of analysis regarding the impacts of displacing park users, lack of consideration of project alternatives or mitigation. Please refer to the following responses regarding the specific points in this comment:

- Master Response 2 regarding public access during construction;
- Master Response 4 regarding the project description, description of lake lowering, and impacts to biological resources and hydrology;
- Response EBRPD-15 regarding impacts to the marina;
- Response EJG-8 regarding the identification of appropriate mitigation measures;
- Response EJG-29 regarding displacement of park users to other park and trail facilities;
- Master Response 1 regarding the analysis of the range of reasonable alternatives; and
- Response EJG-33 regarding the preparation of the EIR in accordance with CEQA.

Responses to each of the commenter's points regarding lack of data and analysis for specific resource areas are included in Responses EBRPD-5 through EMRPD-15.

Response EBRPD-5

Refer to Master Response 4.

Response EBRPD-6

The comment states that the purpose of an EIR is to inform the public and responsible officials of the environmental consequences of their decisions before they are made and that an EIR must contain facts and analysis regarding a proposed project's environmental impacts, not just an agency's conclusions. The comment further states that conclusions regarding environmental impacts were not supported by adequate analysis and that the Draft EIR did not address or mitigate significant impacts.

As stated on page 1-1 of the Draft EIR, the Draft EIR is a public document that identifies and evaluates the potential environmental effects of the proposed project, recommending mitigation measures to lessen or eliminate adverse impacts, and examining feasible alternatives to the proposed project. CEQA Guidelines Section 15121 states that an EIR is an informational

document which will inform public agency decision makers and the public generally of the significant environmental effect of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project. The Draft EIR was prepared in accordance with CEQA Statutes (PRC 21000-21177) and the State CEQA Guidelines (Title 14 California Code of Regulations Division 6, Chapter 3, Sections 15000–15387).

The EIR does not control the agency's ultimate decision on the project, however the agency must respond to each significant effect identified in the EIR by making findings under Section 15091 and if necessary by making a statement of overriding consideration under Section 15093.The Draft EIR contains and cites evidence in the record regarding the environmental conditions and consequences of implementation of the proposed project at and in the vicinity of the site. The impact analysis sections in Chapter 3 of the Draft EIR are consistent with the State CEQA Guidelines and appropriate for a project-level EIR to fully inform the decision-makers of the potential physical environmental impacts of the proposed Chabot Dam Seismic Upgrade Project. In the event that the decision-makers (EBMUD Board of Directors) decide to approve the project, the administrative record, including the Chabot Dam Seismic Upgrade Project Draft EIR, will provide substantial evidence upon which the decision-makers can base a statement of overriding considerations.

The Draft EIR identified mitigation measures in accordance with Section 15126.4 of the State CEQA Guidelines, to reduce potentially significant impacts to a less-than-significant level for the proposed project. Therefore, the Draft EIR meets the standards established in the State CEQA Guidelines, and no additional mitigation measures are required.

The Draft EIR has therefore appropriately focused on environmental factors, contained a proper level of analysis, and no additional studies would be required in order to fully inform the public and decision-makers of the potential environmental impacts of the project.

Response EBRPD-7

Refer to Response EJG-29 regarding displacement of park users to other park and trail facilities.

In accordance with Section 15064(e) of the State CEQA Guidelines, " [e]conomic and social changes resulting from a project shall not be treated as significant effects on the environment. Economic or social changes may be used, however, to determine that a physical change shall be regarded as a significant effect on the environment." Section 15131 of the State CEQA Guidelines states that "economic or social effects of a project shall not be treated as significant effects on the environment. An EIR may trace a chain of cause and effect from a proposed decision on a project through anticipated economic or social changes resulting from a project to physical changes cause in turn by economic or social changes." Thus, CEQA does not require a discussion of socio-economic effects, unless they result in indirect or secondary physical impacts.

As stated on page 3.10-8 and 3.10-9 of the Draft EIR, closure of portions of the West Shore and Bass Cove Trails totaling 1.34 miles would affect special events, and such events would need to be, and could be, re-routed to other trails in the area. The special events could still continue in the park, either on the West Shore Trail (until the closure point) or on other trails. As stated on pages 3.10-1 and 3.10-4 of the Draft EIR, Anthony Chabot Park has a total of 70 miles of trail, and Lake Chabot Regional Park has over 20 miles of trail. The trails in Lake Chabot Regional Park connect to trails in Anthony Chabot Regional Park. The temporary closure of 1.34 miles of

trail would not preclude use of the other trails in the area. Because the trails in Anthony Chabot Park and Lake Chabot Regional Park are connected at other points (such as at the north and east ends of Lake Chabot), special events could be re-routed to other portions of over 90 miles of available trails in the area.

There is no evidence that there would be a loss in operational funding or operational changes such that substantial physical damage to facilities would occur.

Furthermore, the lease between EBMUD and EBRPD specifically recognizes EBMUD's paramount interest in owning, operating, and maintaining the reservoir and dam as part of the public water system (EBMUD 1964). The lease contains the following conditions:

> (Under Paragraph 3)
> It is further recognized and understood by Lessee that Lessor will continue to own, operate and maintain said reservoir and dam as an essential part of the Lessor's public water system for the furnishing of water for municipal, domestic, industrial and other uses to the inhabitants of East Bay Municipal Utility District, and that Lessor is charged with the responsibility of protecting said reservoir and dams or dams, preserving the water-producing capabilities thereof, and to maintain said reservoir and dam or dams free from contamination and pollution and deliver to the consumer of East Bay Municipal Utility District pure, wholesome and potable water.
>
> (Under Paragraph 6)
> For the performance of the obligations, and in recognition of the paramount responsibilities of Lessor specified in Paragraph 3, above, and for the protection of its reservoir, dams and structures, its inhabitants and its water rights, Lessor reserves the right from time to time to establish, fluctuate and regulate the water level of said reservoir and dam as it may see fit, without liability to Lessee, its sublessees or concessionaires. If the exercise by Lessor of any of the rights reserved to it in this paragraph shall entirely prevent the use by Lessee for park and recreational purposes of the demised premises or any portion or portions thereof of periods in excess of sixty days each, Lessee shall be entitled to a proportionate reduction in rental payable hereunder for such areas and such periods of non-use exceeding said sixty day period.
>
> (Under Paragraph 16)
> The following property, rights, easements and reservations are specifically reserved and excepted to Lessor from this lease, in addition to those herein otherwise excepted and reserved:
>
> > (c) The right from time to time to construct, reconstruct, maintain, operate, inspect, repair and renew all existing and future dams, outlet towers, spillways, pipelines, tunnels, aqueducts, conduits, storage tanks, booster stations, pressure breaks, and other facilities and all their appurtenances upon the demised premises necessary or convenient for the collection, storage, and distribution of water by Lessor.

Per the lease, the proposed seismic upgrade project would fall under the Lessor's (EBMUD) rights to "maintain said reservoir and dam" and "protecting said reservoir and dam." However, the lease also specifies that the Lessee (EBRPD) would be entitled to a

proportionate reduction in the rental for portions of the premises that cannot be used for recreation for more than 60 days.

Response EBRPD-8

The EBRPD would be included in EBMUD's regular communications about the proposed project. These communications typically would include postcard mailings, e-mail messages, and website updates. Communications would be based on the needs of the proposed project and also may include public meetings and/or presentations and other forms of media. In addition, as detailed in Mitigation Measure NO-1.2 on page 3.9-13 of the Draft EIR, EBMUD or the construction contractor would notify residents in the immediate vicinity of the project site at least 2 weeks in advance of construction activities. Property owners and tenants would be notified by first-class mail, and signage would be posted at the Estudillo Avenue main entrance to Chabot Park. EBMUD would coordinate with EBRPD and the City of San Leandro to determine any other appropriate locations for signage. EBMUD also would notify the EBRPD of any proposed project refinements that could affect the schedule for trail closures and the timing and extent for lowering of the lake level.

Mitigation Measure NO-1.2 on pages S-40 and 3.9-13 is revised as follows to include coordination with EBRPD and the City of San Leandro regarding signage notifying residents:

> Mitigation Measure NO-1.2: Notify residents in the immediate project vicinity in advance of construction activities.
>
> EBMUD or its construction contractor(s) will notify property owners and tenants within 300 feet of the edge of the construction right-of-way and along the haul routes at least 2 weeks in advance of construction activities. EBMUD will coordinate with the City of San Leandro and EBRPD to determine appropriate locations for signage. Property owners and tenants will be notified by first-class mail and signage will be posted at the Estudillo Avenue main entrance to Chabot Park, leading to the project area.

Response EBRPD-9

As discussed on page 3.10-9 of the Draft EIR, the impact of partial trail closures has been identified as potentially significant. EBMUD has determined that mitigation measures, such as those discussed in Comment EBRPD-10 (alternative trail alignment or access during non-construction times) would be infeasible because of the location of project work sites and potential safety risks to the public (e.g., from NOA). Therefore, because no feasible mitigation exists, the impact would be significant and unavoidable. Please also see Master Response 2.

Response EBRPD-10

A discussion is presented on page 3.10-9 of the Draft EIR about the feasibility of mitigation measures that are recommended in the comment to re-route trails or allow use at certain times. Refer to Master Response 2 regarding public access during construction. Please also refer to Response EJG-29.

Response EBRPD-11

Because dedicated bike lanes exist along Fairmont Drive but none along Estudillo Avenue, only a few bicyclists currently use Estudillo Avenue. To further discourage bicyclists from using Estudillo Avenue during construction, implementation of Mitigation Measure TR-1.1 would result in installation of advance warning signs to inform bicyclists and motorists about the closure of the Chabot Park entrance at the end of Estudillo Avenue and to advise using Fairmont Drive. The intent of this mitigation measure would be to encourage use of Fairmont Drive and minimize use of other roadways to Chabot Park. The existence of bike lanes along Fairmont Drive, along with implementation of Mitigation Measure TR-1.1, would direct cyclists to use those bike lanes to access Lake Chabot Regional Park.

Response EBRPD-12

Refer to Response EBRPD-11.

Response EBRPD-13

Displacement of 1,600 people per month would equate to approximately 400 people per weekend (200 people each on Saturday and Sunday). This would equal about 25 people per hour each way or 13 cars per hour each way, assuming a vehicle occupancy factor of two occupants per vehicle and assuming use is distributed evenly over an 8-hour day. The addition of 13 vehicles per hour each way on Lake Chabot Road or Fairmont Drive would not cause a significant traffic impact because these roadways would have sufficient capacity to accommodate this additional traffic.

The proposed project would result in the displacement of the parking lot (with approximately 40 parking spaces) at the northern end of West Shore Trail because of the closure of the Estudillo Avenue park entrance. Therefore, the parking demand would increase at the main parking lot and along Lake Chabot Road. If the main parking lot was full, an increased demand for on-street parking on Lake Chabot Road would occur, extending further east by approximately 400 feet on each side of the street during the peak summer months, assuming each vehicle would need approximately 20 feet of curb space for parking. This would not result in a significant impact because approximately 1,700 feet of on-street parking spaces would be available west of the park entrance and 890 feet of on-street parking spaces would be available east of the park entrance on each side of Lake Chabot Road. These spaces would accommodate up to 370 vehicles at any given time, thus ensuring ample parking space throughout the day.

Response EBRPD-14

Refer to Master Response 4.

Response EBRPD-15

Impacts to the marina and fishing piers were analyzed on pages 3.10-10 through 3.10-11 of the Draft EIR. The Draft EIR recognized that drawing the lake down below 217 feet mean sea level (msl) would require the public boat ramp to be moved, but that marina operations and public boat launching would continue. The Draft EIR also noted that the fishing piers could sustain physical damage from being out of the water or tilted at an angle due to low water levels. As a

result, the Draft EIR concluded that impacts to the fishing piers would be significant and unavoidable on page 3.10-11.

In a discussion with Tamie Andrews, Park Supervisor on July 18, 2013, regarding impacts from reservoir drawdown in 2012 to 216 feet msl, physical effects to the marina were not identified as potential impacts from drawdown; only physical effects to the fishing docks were identified. The information that was provided to EBMUD showed that the marina was able to continue operating during the drawdown although revenue declined. As stated previously in response to EBRPD-7, economic impacts are not subject to CEQA analysis unless they result in secondary physical impacts. In this case, available information showed that no physical impacts to the marina were identified, and thus no mitigation for impacts to the marina was required. A discussion of marina operations is on page 3.10-10 of the Draft EIR.

In addition, the lease between EBMUD and EBRPD specifically recognizes EBMUD's paramount interest in owning, operating, and maintaining the reservoir and dam as part of the public water system. Therefore, the lease guarantees EBMUD the right to fluctuate reservoir levels as necessary for its operational or maintenance needs without liability to EBRPD, its sublessees, or concessionaires. Under the lease, EBRPD is entitled to a proportionate reduction in the rental for portions of the premises that cannot be used for recreation for more than 60 days. Refer to Response EBRPD-7 for further details regarding the lease language.

2.6 City of San Leandro

Comment Letter CSL

City of San Leandro
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February 4, 2014

Bill Maggiore, Senior Civil Engineer
East Bay Municipal Utility District
375 Eleventh Street, MS 711
Oakland, CA 94607-4280

Via Eemail: Chabot.Dam.EIR@ebmud.com

RE: COMMENTS ON DRAFT EIR FOR CHABOT DAM SEISMIC UPGRADE PROJECT
(SCH # 2013042075)

Dear Mr. Maggiore:

Thank you for sending the Notice of Availability of the Draft EIR for the Chabot Dam Seismic Upgrade Project to the City of San Leandro. The City is an interested party with respect to the project in that the City maintains and operates Chabot Park within the project area. Chabot Park is an important recreational resource and the City has made significant improvements to the park. Further, San Leandro Creek flows through the project site and continues downstream through the City. Also, project traffic and noise will likely affect nearby residents in the City.

By letter dated May 24, 2013, the City provided its response to the District's Notice of Preparation for the Draft EIR. The response letter identified City concerns about air quality during construction; biological resources; geology and soils especially in the stockpile areas, along the creek, and for the dam; hydrological impacts on the creek during construction; noise; and especially recreation and traffic. The letter is incorporated herein by reference.

The Draft EIR addresses many of the City's identified concerns. However, several concerns remain, primarily with respect to recreation and traffic. These and other remaining concerns are addressed in the following comments.

Aesthetics Analysis and Impacts

Impact AE-3. The City disagrees with the conclusion that removal of the pavilion and outlet tower would not substantially degrade the existing visual quality and character of the dam area (p. 3.2-16). Contrary to the statement that these structures are only visible at a distance, Photo 3.2-18 shows they are readily visible from the West Shore Trail. Furthermore, these structures provide a pleasing complement to the engineered outlet works facilities. Along with the dam and outlet works, these structures define the dam and the existing character of the lake, and were purposely built to provide a

CSL-1

viewer, boater and trail-user focus in addition to the industrial focus of the outlet works. Removal of the pavilion and outlet tower would not restore the site to a natural setting; the site would still contain an engineered dam and spillway which themselves permanently changed the surrounding setting. The City recommends that the project be modified to retain and retrofit the tower and pavilion to maintain their physical scenic value in the existing context. The City would be glad to work with the District on retrofit options. With retention and retrofit of the two structures, the project impact would be less than significant.

CSL-1 cont.

Cultural Resources Analysis and Impacts

Impact CR-1. The City agrees that the outlet tower is a prominent visual component of the Lake Chabot Waterworks District and provides an opportunity for the public to "view the relationship between functional parts of the water works" (p. 3.5-13). Although retention of the tower would clearly resolve the impact, this option is not examined in the impacts or mitigation discussions. The City recommends that Mitigation Measure CR-1.1 be modified to require consideration of retaining and retrofitting the outlet tower. A detailed report should be required to review various ways that the tower can either be retrofitted, relocated or preserved rather than demolished. A solution should be selected so that the public will be able to maintain the physical relationship between the functional parts of the water works and also maintains the aesthetic features of the facility. The City further recommends that retention of the pavilion be included in the impact and mitigation as it is important artifact of the facilities' history. The pavilion may not have the same direct connection with the waterworks; it does, however, provide a public vantage point for observing and appreciating the facilities. With the above modifications, the impact would be reduced to less than significant.

CSL-2

Traffic and Circulation Analysis and Impacts

Impact TR-3. Large construction vehicles on residential and other local roadways during peak periods substantially increase traffic hazards. Mitigation Measure TR-1.1 is inadequate as written because it does not sufficiently protect traffic conditions during peak periods. The City recommends that the required traffic control plan add a provision specifying that construction vehicles, material deliveries and hauling should occur outside of the AM and PM peak traffic periods.

CSL-3

Recreation Analysis and Impacts

Impact RE-1. The proposed project would increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated. The DEIR finds this impact Significant and Unavoidable. As noted in the discussion, the City manages 4 parks within a 2-mile distance of the project (Table 3.10-1). While displaced park users are likely to disperse over substitute locations, as asserted in the discussion, the parks nearest the closed facilities are likely to bear the largest impact of added use during closure of Chabot Park. Under these circumstances, the City requests that the project be modified to include

CSL-4

compensation for anticipated deterioration of those parks shown within the 2-mile distance (i.e., Toyon, Memorial, McCartney, Root). **CSL-4 cont.**

Impact RE-2. The discussion recognizes that existing recreational facilities will need to be removed during construction, stored, and reinstalled or replaced following construction, in consultation with the City. The discussion further notes that a long term benefit may result if the reinstalled facilities are rearranged to better accommodate existing uses. The City appreciates the opportunity to consult on the reinstallation or replacement of removed facilities. In anticipation of the consultation process, the City notes that equipment and facilities should meet safety and accessibility codes and should be placed in locations according to the Chabot Park master plan. The City also notes that the summer Day Camp will need to be relocated for two seasons. The relocation may include storage as well as arranging for temporary structures, temporary restrooms, and other temporary facilities for operation during the interim seasons. The City requests that the District provide compensation for these costs associated with moving the Day Camp to another location for two seasons. **CSL-5**

Impact RE-3. The analysis identifies short and long term impacts from alteration of the recreational setting. As noted above under Aesthetics, the City disagrees with the conclusion that removal of the pavilion and tower would not be a substantial change. These structures are highly visible from the trail, provide public viewing opportunities of the waterworks, and complement the industrial character of the waterworks. **CSL-6**

The City is very concerned about the long-term impacts on the visible recreational setting at Chabot Park that would result from removal of trees. The City agrees that this impact would be potentially significant for users of Chabot Park. As noted in the discussion, altering the visible setting would change visitor experiences at the park since the recreational setting is a key factor in recreational experience. The identified mitigation measures BR-4.1, BR-4.2, BR-4.3, and AE-1.1 focus on the number and protected status of trees; however, some trees that might not otherwise be protected are critical to the recreational experience. A prime example is the redwood trees near the new restroom which make a perfect natural backing for a newly placed amphitheater. The City requests that these redwood trees NOT be removed as they are an integral component of the recreational experience. **CSL-7**

Chabot Park Master Plan

As noted in the comments above, the City has planned extensively for the facilities, services, maintenance and improvements at Chabot Park through the Chabot Park Master Plan. The City appreciates the opportunity to consult with the District in implementing the project and mitigation measures and requests that project activities and mitigations comply with the Master Plan. Examples mentioned above include reinstallation of equipment after construction; other examples include any parking lot construction or reconstruction. As part of any consultation, the City anticipates that its recommendations would be guided by the Master Plan. **CSL-8**

Minor Corrections, Revisions

References to the "San Leandro Fire Department" in the Draft EIR should be changed to" San Leandro Environmental Services Section." This revision applies throughout the Draft EIR.

CSL-9

Thank you for the opportunity to comment on the Draft EIR for the project, especially since the project will directly and substantially affect the City and City residents near the project site. Please do not hesitate to contact me if there are any questions on the above comments.

Very truly yours,

Chris Zapata
City Manager

cc: San Leandro City Council
Lianne Marshall, Assistant City Manager
Richard Pio Roda, City Attorney
Cynthia Battenberg, Community Development Director
Carolyn Knudtson, Recreation and Human Services Director
Debbie Pollart, Public Works Director
Sandra Spagnoli, San Leandro Police Chief

Response CSL-1

The comment disagrees with the conclusions that removal of the pavilion and outlet tower would not substantially degrade the existing visual quality and character. The comment also states that, contrary to what is discussed in the Draft EIR, the structures are visible from the West Shore Trail. The discussion on page 3.2-4 of the Draft EIR acknowledges that the pavilion is visible from the lake and West Shore Trail. The text on page 3.2-16 of the Draft EIR has been revised for clarification and the revised text is shown at the end of this response.

The aesthetics analysis is based on the significance criteria presented under "Significance Criteria" on page 3.2-10 of the Draft EIR. The threshold of significance for potential visual impacts is whether the proposed project would have a substantial adverse effect on a scenic vista or substantially degrade the existing visual character of the site when compared to existing conditions (page 3.2-10 of the Draft EIR). Viewer sensitivities and opinions regarding aesthetics are recognized as being subjective and variable, and thus some members of the public may object to the proposed changes in the visual landscape while others do not. However, under CEQA criteria, a significant aesthetics impact would occur only when the adverse effects were "substantial."

As noted in the discussion on page 3.2-16 of the Draft EIR, the visual character of the area from the West Shore Trail and for boaters is dominated by the lake and vegetation. The outlet tower and pavilion are not dominant features, and their removal would not constitute a substantial change to the visual character of this vista. Because the predominant visual character elements—the lake, dam face, spillway, and surrounding shoreline and vegetated areas—would remain intact, the removal of the outlet and pavilion would not constitute a substantial change. The conclusion that aesthetics impacts from the project would be less than significant is appropriate and no evidence has been provided to justify changing this conclusion.

The first paragraph under "Outlet Tower Works" on page 3.2-16 of the Draft EIR is revised as follows to clarify:

> Removal of the pavilion and outlet tower would result in a minor change~~s~~ to the visual character from~~of~~ the West Shore Trail, as shown in Photo 3.2-18. Currently, the project foreground is dominated by the lake. The spillway entrance is visible in the center of the photo, and the outlet works are to the right. These built features do not extend above the hillside and treeline. The ~~V~~visual character (as shown in Photo 3.2-18) consists mainly of ~~is dominated by~~ the lake and vegetation. Except for removal of the outlet tower and pavilion, the other dam features would remain similar to the existing ones after construction (as shown under "Proposed" in Photo 3.2-18). The pavilion and outlet tower are not listed as scenic resources in the City of Oakland, Alameda County, or Castro Valley Area General Plans. Although the pavilion and outlet tower are recognizable to visitors at Lake Chabot (as shown in Photo 3.2-18), removal of these facilities would not substantially degrade the existing visual quality or character of the dam area because the majority of the visual character—the lake, spillway, surrounding vegetated area—would remain ~~because they are only easily visible from a distance~~ (see Photo 3.2-18). The pavilion has also become a target of trespassers and is covered with graffiti. Its

> removal would restore the outlet works and pavilion site to a natural setting, which would be more consistent with the visual character of the surrounding vegetated area~~/ wildland park~~ setting. Therefore, removal of the pavilion and outlet tower would have a *less-than-significant* impact on aesthetics.

Response CSL-2

Refer to Master Response 1 regarding the range of reasonable alternatives.

Response CSL-3

The comment regards large construction vehicle movement during peak hours. Large construction vehicles would be used for material deliveries. Table 3.6-5 of the Draft EIR shows three inbound deliveries and three outbound deliveries during the morning peak hour, and the same numbers for the evening peak hour. This frequency of proposed project-generated, large-construction vehicles would not be substantial relative to usual traffic conditions, and it would not cause a substantial disruption to traffic flow on area roadways, even during commute hours. With implementation of Mitigation Measure TR-1.1, the impact would be less than significant.

Response CSL-4

Refer to Response EJG-29.

Response CSL-5

Refer to Master Response 3.

Response CSL-6

As noted on page 3.2-16 of the Draft EIR, the visual character of the area from the West Shore Trail and for boaters is dominated by the lake and vegetation. The outlet tower and pavilion are not dominant features, and their removal would not constitute a substantial change to the visual character of this vista. Because the predominant visual character elements—the lake, spillway, and surrounding vegetated areas—would remain intact, the removal of the outlet and pavilion would not constitute a substantial change. Therefore, a substantial change in the recreation setting, and subsequently visitor's recreational experiences, would not occur.

Response CSL-7

Impacts on the recreation setting are discussed on page 3.10-12 of the Draft EIR. As noted therein:

> Long-term impacts on the visible recreational setting primarily would occur at the West Shore Trail, resulting from the removal of the pavilion and tower, and at Chabot Park, resulting from the removal of trees to widen the haul routes or use of the park as a stockpile location. Removal of the pavilion and towers are not expected to substantially alter the visible recreational setting at the West Shore Trail because the pavilion and tower would have been visible from only a small

> portion of the trail. Thus, the proposed project would not substantially degrade the recreational experiences of trail uses. However, the impact would be *potentially significant* for users of Chabot Park because many large trees would be removed from around the recreation facilities, altering the visible setting and changing the experiences visitors would have at the park. However, implementation of Mitigation Measures BR-4.1, BR-4.2, a BR-4.3, and AE-1.1 would reduce the potentially significant impact to a *less-than-significant level with mitigation incorporated*.

Because the recreational setting at Chabot Park is dominated by the presence of large trees, the Draft EIR concluded that removal of large trees could cause significant impacts. However, because smaller trees are not a dominant vegetation form and do not substantially contribute to the park's forest-like setting, EBMUD has determined that removal of smaller trees would not cause significant impacts.

Nonetheless, because of the dominance of large trees in the area, implementation of Mitigation Measures BR-4.1, BR-4.2, BR-4.3, and AE-1.1 would protect and mitigate for impacts on a substantial proportion of trees in the park. These mitigation measures would require avoidance of protected trees to the greatest extent possible, replacement of all non-invasive protected trees that are removed, and preparation and implementation of a tree preservation plan. The redwood trees near the new restroom are not located within the park stockpile footprint and would be protected under the tree preservation plan (Mitigation Measure BR-4.2) if the park stockpile is used.

Response CSL-8

Refer to Master Response 3.

Response CSL-9

References to the "San Leandro Fire Department" have been corrected to "San Leandro Environmental Services Section" and are reflected in Chapter 3, Document Revisions.

The last paragraph on page 3.12-5 of the Draft EIR is revised as follows:

> CCR Title 27, Division 1, Subdivision 4, Chapter 1 provides for the regulation and administration of the CUPAs. In the project area, the CUPAs are the ~~San Leandro Fire Department~~San Leandro Environmental Services Section and the Oakland Fire Department.

The "San Leandro Fire Department" section on page 3.12-7 is revised as follows:

> **San Leandro Environmental Services Section** ~~Fire Department~~
>
> San Leandro Environmental Services Section ~~Fire Department~~ is the CUPA regulating underground storage tanks (USTs) and hazardous materials business plans (HMBPs) in the City of San Leandro portion of the project area.

2.7 Bill Eckes

Comment Letter BE

[redacted]

From: Maggiore, Bill <bmaggior@ebmud.com>
Sent: Wednesday, February 19, 2014 7:35 AM
To: Yogi, Susan; Tobin, Marcia
Cc: Todaro, Sean
Subject: FW: Lake Chabot trail closures

From: Blackwell, Michelle
Sent: Tuesday, February 18, 2014 1:23 PM
To: Todaro, Sean; Maggiore, Bill
Subject: FW: Lake Chabot trail closures

Thank you,
Michelle
(510) 287 2053

For after hour contacts call EBMUD at 1 (866) 403 2683.

From: William Eckes [redacted]
Sent: Thursday, February 13, 2014 8:04 PM
To: Blackwell, Michelle
Subject: Lake Chabot trail closures

Please send me email updates for hiking trail status during the Lake Chabot Dam construction. I hope that adequate attention is given to maintain the continuity of the hiking loop: perhaps the gate at the south end of the dam could be opened, providing a detour around the dam. **BE-1**

Thank you,

Bill Eckes
[redacted]

1

Response BE-1

Per the comment, the addition will be made to the project email distribution list. Refer to Master Response 2 regarding public access during construction.

2.8 East Bay Watershed Center

Comment Letter EBWC

WATERSHED CENTER

east bay watershed center

Institute for Sustainable Policy Studies
Environmental Management and Technology
Merritt College
12500 Campus Drive, Oakland, CA 94619 www.ecomerritt.org

RE: Chabot Dam Seismic Upgrade Project SCH# 2013042075

Bill Maggiore, Senior Civil Engineer
East Bay Municipal Utility District
375 Eleventh Street MS 701
Oakland, CA 94607-4240
Chabot.Dam.EIR@ebmud.com

January 30, 2014

Dear Bill Maggiore,

I am writing citing inadequacies of the Draft EIR for the Chabot Dam Seismic Upgrade. Aesthetics, Biological Resources, Hydrology and Water Quality, Recreation, Geology and Soils and Cultural Resources are not adequately addressed. Although this letter establishes administrative precedence for litigation, we are hoping to avoid legal measures.

In the Biologic Resources, Hydrology and Water Quality and Geology and Soils sections, there is an excellent opportunity to include ecological restoration of the stream bank riparian vegetation and stream channel, required regulatory fish passage flows, habitat, and educational access to the portion of San Leandro Creek in the East Bay Municipal District area below Chabot Dam. Since this project will negatively impact these resources, bringing them up to current regulatory levels is required. Reports by Leidy and others, show populations of the native Rainbow Trout/Steelhead with DNA links to the upstream population protected on the National Historic Register. The minimal mitigations suggested in the Draft EIR do not qualify them as Less than Significant with Mitigation. EBWC-1

In the Aesthetics and Cultural Resources sections, the dismissal of the San Leandro Creek Watershed as a known Jalquin Ohlone permanent and seasonal EBWC-2

population location (Egert, et al) does not qualify as No Significant Impact or Less than Significant with Mitigation. Interpretive signage and archaeological oversight, at minimum is required. The "research" cited in the Draft EIR is superficial and misinterpreted. EBWC-2 cont.

The Seismic Upgrade shows earth and equipment potentially being stored on, or driven over historic and archaeologically significant Chinese work camp sites (Beggs, J). This constitutes a Significant Impact. This important element of California history is simply dismissed in the Draft EIR and is inadequate. It requires substantial mitigation and oversight. EBWC-3

Removing the historic "Diana's Temple" Pavilion is a Significant Impact. The required mitigation will be to reconstruct it at a nearby accessible location as an historical interpretive display in keeping with the existing precedence of the historic water treatment equipment restored, maintained and displayed in the park. EBWC-4

The Draft EIR makes no accommodation for public hiking and biking access to the popular Lake Chabot Regional Park, This is a Significant Impact and can only be mitigated by providing an alternative pedestrian access. EBWC-5

There is extensive Public Trust interest in creek access, habitat, cultural interpretation and fish restoration documented by citizen groups and Merritt College projects.

Sincerely,

Robin Freeman, Director
East Bay Watershed Center
Merritt College
rfreeman@peralta.edu

cc:
Alameda County Flood Control District
City of Oakland
City of San Leandro
East Bay Regional Park District
Friends of San Leandro Creek
San Leandro Creek Alliance
Oakland Heritage Alliance
Alameda County Historical Society

Response EBWC-1

Refer to Master Response 5.

Response EBWC-2

Refer to Response CSL-1 regarding aesthetics.

The prehistoric, ethnographic, and archaeological environmental setting that is presented in the Draft EIR summarizes the findings which are documented in the Chabot Dam Seismic Upgrade Cultural Resources Inventory and Evaluation Report (AECOM 2013). The inventory and evaluation report was prepared by cultural resources professionals who meet the Secretary of the Interior's professional qualifications standards for archaeology, history, and architectural history. The methods for preparing the inventory and evaluation report included research, fieldwork, and consultation with the Native American Heritage Commission and Native American individuals/organizations with possible knowledge of specific resources in the area. Through this research and consultation, no significant Native American cultural resources were identified in the vicinity of the proposed project, and no concerns were raised by the Native American Heritage Commission or the Native American individuals and organizations contacted.

Nonetheless, the Draft EIR recognizes the cultural and archaeological sensitivity of the project area, and concludes that if previously unknown archaeological resources were affected during construction-related activities, the impact would be potentially significant.

Implementation of Mitigation Measure CR-2.1 would reduce the potentially significant impact (i. the loss or further damage of the archaeological materials). The mitigation measure would reduce the potentially significant impact by providing that unanticipated discoveries would be addressed and that construction would halt until plans were developed to avoid further damage or to recover the data that would qualify the site as a historical resource.

Response EBWC-3

As discussed in Response EBWC-2, a Cultural Resources Inventory and Evaluation Report has been prepared. However, the Draft EIR does not identify specific locations of known archaeological sites, in the interests of protecting those sites from looting or other damage. The Draft EIR addresses the potential for a proposed project impact on culturally sensitive areas, under Impact CR-2 and Mitigation Measure CR-2.1 on pages 3.5-15 and 3.5-16 of the Draft EIR. This includes the former Chinese work camps in the project area. As noted on page 3.5-16 of the Draft EIR, excavation associated with the CDSM and Conventional Earthwork options would include excavation in areas of archaeological sensitivity. In addition, the discussion on page 3.5-16 of the Draft EIR recognized the potential for the Lower Haul Route to affect areas of archaeological sensitivity. In accordance with CCR 15064.5 (f), Mitigation Measure CR-2.1 states procedures to be followed in the event of the discovery of archaeological resources during construction. Provisions for stopping work in the immediate area of the discovery of any archaeological remains and the evaluation of the find by a qualified archaeologist, as provided in Mitigation Measure CR-2.1, is in accordance with CCR Section 15064.5 (f) of the State CEQA Guidelines. Because of the potential to encounter previously undocumented archaeological resources, Mitigation Measure CR-2.1 would be implemented so that impacts on

archaeologically sensitive areas, including potential Chinese work camps in the project area, would be less than significant.

The numbering for Mitigation Measure CR-1.2 has been corrected to Mitigation Measure CR-2.1, to be consistent with the impact statement numbering. The mitigation measure title is revised as follows on pages S-29, 3.5-16, 4-17, and 4-31 of the Draft EIR:

> Mitigation Measure CR-~~1.2~~2.1: Stop work if prehistoric or historic archaeological resources are discovered, assess the significance of any find, and implement recovery plan, as required.

Response EBWC-4

Refer to Master Response 1 regarding the pavilion. As noted in Master Response 1, removal of the pavilion would not result in a potentially significant impact. Under Section 15126.4 of the State CEQA Guidelines, the identification of feasible and enforceable mitigation measures only are required to avoid or reduce the magnitude of potentially significant impacts of the proposed project. Because removal of the pavilion would not result in a potentially significant impact, mitigation as suggested by the comment would not be required under CEQA.

Response EBWC-5

Refer to Master Response 2.

2.9 Eric Holmes

Comment Letter EH

[redacted]

From: Maggiore, Bill <bmaggior@ebmud.com> on behalf of Chabot Dam EIR <chabot.dam.eir@ebmud.com>
Sent: Tuesday, February 04, 2014 6:10 AM
To: Todaro, Sean; Tobin, Marcia; Yogi, Susan
Subject: FW: Lake Chabot Dam Project Draft EIR Comment

-----Original Message-----
From: Eric Holmes [redacted] On Behalf Of Eric Holmes
Sent: Monday, February 03, 2014 10:59 PM
To: Chabot Dam EIR
Subject: Lake Chabot Dam Project Draft EIR Comment

Hello,

I am writing in regards to the Lake Chabot Dam Project Draft EIR.

First: Public Access.

Public access from San Leandro's Chabot Park to Lake Chabot should be provided during non-workdays. Neighborhood access from San Leandro and Oakland to Lake Chabot would be eliminated during the project period if there is no weekend public access. Even if Chabot Park cannot be opened, public access can be made possible from the neighborhood, directly to the trail, and up to the dam. **EH-1**

In addition, public access on non-workdays should be made for the segment of the Lake Chabot trail that crosses the dam. There is no reason for the dam trail to be shut down on non-workdays. There will be significant impacts to trail users and special events. **EH-2**

Second: The Pavilion Structure

The pavilion/temple/Diana's Temple is a significant structure located on Lake Chabot dating back to 1917. There was not adequate study of the removal of this structure during the environmental review. The three options studied were: retrofit the tower, don't retrofit the pavilion, retrofit the pavilion but not the tower, or demolish the structure. The environmental review did not study the option of retrofitting both the tower and pavilion. **EH-3**

This is a blatant oversight. The pavilion structure is an historically significant neoclassical structure located within the City of Oakland. Various water company events were held at the pavilion during the 1910s and 1920s, the temple celebrated Lake Chabot as the crowning achievement of a municipal water supply. EBMUD has demolished several historic structures at the Lake Chabot dam, but demolishing the temple would be the most devastating to local history.

EBMUD did not properly study all options for Tunnel #2 and the pavilion/tower. Please study the retrofit of both the pavilion and the tower structure that it sits on. **EH-4**

Thank you.

Eric

Response EH-1

Refer to Master Response 2.

Response EH-2

Refer to Master Response 2.

Response EH-3

Refer to Master Response 1.

Response EH-4

Refer to Master Response 1 regarding cultural resources and discussion of historic significance under CEQA.

2.10 Evelyn and Juan Gonzalez

Comment Letter EJG

Draft EIR Chabot Dam Seismic Upgrade
Comments and Questions
Evelyn and Juan Gonzalez
[redacted]

3.4 Biological Resources

1. The San Joaquin kit fox has been observed in the project area within the last three years. As a protected species not included in this EIR, if observed in the area, will it receive the same level of protection as the named species, especially, Mitigation Measures BR 1.4 and BR 1.5? **EJG-1**

2. Construction disturbs wildlife habitat, which can result in pushing wildlife into new areas. In the past, coyotes have been a problem in our neighborhood. If the project results in increase wildlife (coyotes, turkeys, foxes, etc.) activity in our neighborhood can the project biologist be available to advise the neighbors on management strategies? **EJG-2**

3. Table 3.4-4 states that the Outlet Work has a "Potentially Significant impact" on the bald eagles. Mitigation measures BR 1.4, 1.6 and 1.7 will be followed. BR 1.6 calls for the removal of potential nesting habitat. Our community is very excited about our bald eagles and would like them to continue nesting in the park. Do you plan to cut down trees on the other side of the lake where the current nest are located? **EJG-3**

4. Mitigation Measure BR 1.2 allows the biologist "to stop work if a listed species is encountered". What list is being referred to in this statement? Is it the state and federal list or just the project list of already identified protected species in the project area? If the work stopage results in project delays, will the city staff and neighbors be notified that a delay is occurring? **EJG-4**

3.5 Cultural Resources

1. The area surrounding the park entrance (LeBrun neighborhood) was owned by Paul I Daniels. He purchased the land from the People's Water Company. He worked as a land manager for People's Water, a role he continued at the new East Bay Water Company.

   One of his roles through the years was fire prevention. He looked for new tree types that were drought tolerant and fire resistant. He gathered trees from around the world to evaluate for use on EBMUD land. His nursery for these new trees was at Chabot Park. There is a set of parallel lines of trees currently present in the park, reflecting where saplings were kept by Mr. Daniels. From a historical prospective, it would be useful to identify if there are any exotic trees (from different parts of the world.) still growing at the park. Although I am not requesting that these trees be retained, I do request they just be identified before they are removed in case that information is useful. **EJG-5**

2. In Mitigation Measure CR-1.1, a document will be produced with a historical narrative and visual illustrations of the outlet tower. Can a copy of this document be given to the San Leandro Main library history room? This will allow residents of San Leandro greater access. EJG-6

3.6 Transportation

EBMUD has access to fireroad(s) that it could use to access its property; it need not use surface streets passing through serene neighborhoods to conduct its construction operations. Even if it were the case that it could not reasonably modify its fireroad(s) to accommodate all traffic, it should carefully evaluate whether the fireroad(s) could be used to mitigate neighborhood congestion, air quality impact, and noise by handling a large portion of its traffic impact. Access to this fireroad could also encourage use of Fairmont Drive (a multi-lane boulevard) and Lake Chabot Road, passing through non-residential areas, as opposed to using a neighborhood street to access its construction site. EJG-7 EJG-8

More generally, the traffic analysis offered by EBMUD appears flawed at least several ways. We request that EBMUD more carefully analyze the information available to deliver a more realistic assessment of the expected traffic conditions. Among other things:

1. The analysis appears to have been performed using historical data; it does not take into account the anticipate impact of the new Kaiser Permanente Hospital on San Leandro traffic. Table 3.6-7 and Table 3.6-8 gives the projected LOS of various ramps and intersections during the project period. Kaiser hospital is opening this year. As the largest employer in San Leandro we know that the LOS of these ramps and intersections will have already increased. Can the LOS during the EBMUD project be calculated by including the projections of LOS after Kaiser opens? EJG-9

2. If work shifts occur as described, most workers will be arriving as others are leaving. The "one lane" Estudillo bridge at the entrance to Chabot Park will be a bottleneck leaving a line of cars in the neighborhood blocking driveways. When two lanes of cars try to concurrently use the bridge, traffic is quite slow. This neighborhood congestion is unaddressed in the report. EJG-10

3. Per assumptions in the report, on the order of 100 cars will pass through the Lake Chabot Road/ Estudillo intersection at shift change. Since westbound Estudillo has a stop sign at Lake Chabot Road, and given the frequency of traffic travelling westbound on Lake Chabot Road during peak travel, it is untenable to believe that the average wait time to exit the neighborhood (Estudillo at Lake Chabot Road) will increase by approximately one second at shift change. EJG-11

4. The impact on MacArthur Estudillo is similarly untenable. As a resident, I detest traveling through the intersection at peak hours if I need to turn left from westbound Estudillo onto southbound Grand Ave (toward the I-580 entrance ramp). The stress on the faces of drivers trying to make unprotected left turns is palpable. Typically only one or two cars can turn before the light changes. How is it that by adding more traffic at the intersection the result impact will only increase wait time by one tenth of a second? This is simply unrealistic. EJG-12

5. Students going to school and coming home is a concern. The MacArthur Blvd./Estudillo Ave. intersection has already had student/car involved accidents. Some San Leandro High School and Bancroft students start school at 7:15 AM which may be a critical time in the movement of equipment and people. EJG-13

6. The MacArthur Estudillo intersection already has a fair number of red-light runners as people deal with the frustration the intersection poses at peak hours. How will the mitigation plan decrease this frustration and risk? EJG-14

7. One of the mitigation steps is to use flaggers and stop signs to slow traffic down. Yet, we are told that wait times will not increase. This simply does not make sense. EJG-15

8. The neighborhood has a fair number of walkers. How will their safety be addressed in the absence of neighborhood sidewalks? The EIR identifies the issue (lack of sidewalks), but does not address the risk of construction vehicles interacting with pedestrians within our neighborhood. I am especially concerned for the children walking to and from school. EJG-16

9. The last EBMUD project caused problems with parking in the neighborhood. On page 3.6-21 the on-site parking lot can accommodate 160 vehicles. In table 3.6-4, The outlet work done concurrently with CDSM over day and night shifts has 198 workers. Typically during a shift change there is some overlap of workers. If this scenario is used, how will 160 spaces be adequate? EJG-17

The traffic and circulation analysis is significantly deficient without more carefully analyzing these effects. Ignoring each of these effects serves to understate the impact of the construction project on local traffic, both in specifically in our neighborhood, and at intersections near our neighborhood. EJG-18

3.7 Air Quality

1. As a person that suffers from asthma, I am concerned about the air quality during this project. Will the parking area be paved to decrease dust? EJG-19

2. In Mitigation Measure AQ-2.1 the sixth bullet talks about the maintenance of construction equipment. Older vehicles give off more pollutants. In other EIR, I have observed a manufacture date of vehicles as part of mitigation measures. For example, only vehicles less than ten years will be used on this project. EJG-20

3.9 Noise and Vibration

Page 3.9-3 suggests that the ambient level of sound in the vicinity is 60 dB. The mitigated sounds are less than 60 dBA. Does this imply we won't hear the construction above the existing ambient noise? If so, commit. If not, why not? EJG-21

The calculations of noise seem problematic:

1. Calculations ignore the operation of trucks and equipment in the neighborhood. All reference points are the with respect to sound sources at the dam or at the stock piles, not in the streets next to our homes. EJG-22
2. Inverse square law for sound attenuation applies to a single point source in an open field (i.e., an environment absent reflection and reverberation). This is not the environment in which these sound sources will operate. First, this work involves multiple sources of sound generation including both fixed and mobile sources. Second, the field does not qualify as an open field, as the work is being performed in a canyon (and/or an amphitheatre like configuration). This effect is ignored by the analysis presented. EJG-23
3. Sound perception is influenced by masking. The descriptions of perceived loudness do not describe how this reality is addressed by the analysis performed, in ascertaining perceived loudness at night and day, given that daytime masking is greater than potential sound masking at night time. EJG-24
4. No analysis is provided of temperature gradients and inversions that may in fact increase the perceived loudness of sound. EJG-25
5. No analysis is offered to address the difference in the attenuation of high frequencies and low frequencies. As San Leandro residents can attest based on concerts in Oakland, loud low frequency sounds can travel large distances (e.g., miles) and be heard inside of homes. The sound pressure scale used in the analysis (dBA) underweights low frequencies. Despite being a commonly used scale, it likely does not address the actually impact of sound on the residents surrounding the construction. EJG-26
6. Attenuation due to vegetation should be reconsidered in light of the large tree removal planned as part of the project. EJG-27

The sound analysis prepared is significantly deficient without more carefully analyzing these effects. Ignoring each of these effects serves to understate the impact of construction noise on our neighborhood. EJG-28

3.10 Recreation

1. The EIR projects that 30,000 to 70,000 Chabot park users will be displaced during this work. Many of these displaced users are walkers. I expect the walking paths and tracks on our school grounds will see a lot more use. During the summer the school maintenance is lower. Can EBMUD help mitigate the impact to the school and parks? EJG-29
2. Chabot Park equipment and facilities will be removed and then reinstalled at end of project. My concern is that when you remove equipment you must reinstall by EJG-30

following the new state codes. The old playground equipment may not meet the new codes. If playground equipment or bathroom facilities need to be updates before they can be replaced will EBMUD cover required upgrades? EJG-30 cont.

3. Can EBMUD work with the city to replace equipment in new locations according to the park master plan instead of just returning it to the same location? EJG-31

General Project Management Questions and Observations

1. Will EBMUD provided regular updates to the City of San Leandro? If yes, how often will the updated be provided? EJG-32

2. If EBMUD is confident in its EIR analysis, is it willing to financially commit to the community that it will not exceed the metrics presented in its EIR? For example, will EBMUD financially compensate the community if the traffic conditions or sound conditions are worse than represented in this report? EJG-33

3. Many dams are located in rural settings. In contrast, this project is taking place in an urban setting with greater impacts to residents. The currently proposed access to the construction site is directly through a residential neighborhood. Therefore, I would expect greater mitigation than required on other rural projects. EJG-34

Response EJG-1

Refer to Response CDPM-5.

Response EJG-2

Refer to Response CDPM-6.

Response EJG-3

The bald eagle nest would not be disturbed. All project construction work, including tree removal, would occur within the project work boundaries and would not result in destruction of occupied nesting habitat. The project work boundaries are shown in Figure 2-14 of the Draft EIR. The bald eagle nest is approximately 0.25 mile from the project work boundaries, as shown in Figure 3.4-3 on page 3.4-15 of the Draft EIR.

Response EJG-4

The term "listed species" refers to plants and animals identified as threatened, endangered, candidate, sensitive, or special-status species by the U.S. Fish and Wildlife Service (USFWS) or CDFW, or in local plans, policies, or regulations. A footnote was added to clarify this reference, and is reflected in Chapter 3, Document Revisions. A prolonged work stoppage would be unlikely to occur. In any event, if the construction schedule experiences a significant delay, City and EBRPD staff and neighbors would be notified by EBMUD.

Response EJG-5

The significance of the Waterworks Historic District relates to its original engineering design and civil engineering function, and the influence that the waterworks had on the early development of the surrounding communities, and not to the decades of management and site maintenance of the facility. Therefore, the stand of trees that may have served as a nursery or other exotic tree samples planted for land management purposes would not qualify as contributing elements to the historic district. Because these are not historical resources for the purpose of CEQA, their removal would have no impact on historical resources. No additional mitigation is required. In terms of documentation, the Tree Preservation Plan that is required as part of Mitigation Measure BR-4.3 would be based on a tree survey and assessment (or similar report), detailing information on tree species in the project site. Thus, if exotic trees are present, it would be noted in the tree survey and assessment.

Response EJG-6

The comment requests that a copy of the document to be prepared under Mitigation Measure CR-1.1 be provided to the San Leandro Main Library. Because the project area is within the City of Oakland, the City of San Leandro, and a portion of unincorporated Alameda County (Castro Valley), EBMUD agrees to provide a hard copy of this document to each of the three respective public libraries.

The text of Mitigation Measure CR-1.1 on pages S-3 and 3.5-14 of the Draft EIR is revised as follows:

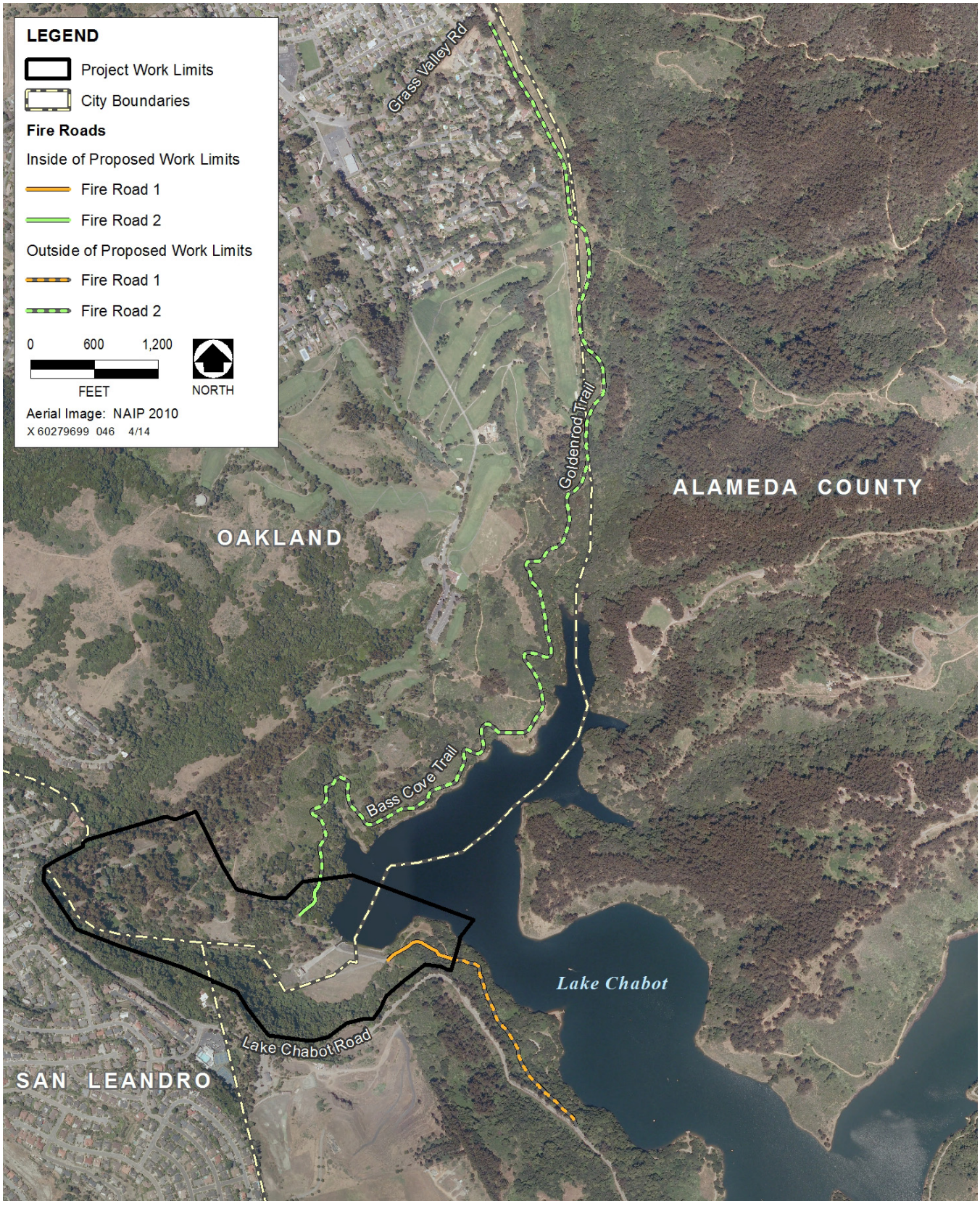
> Mitigation Measure CR-1.1: Produce and distribute an interpretive/educational document about the Lake Chabot Waterworks District.
>
> As an addition to the existing on-site interpretive panels of the Lake Chabot Waterworks District and the cultural resources inventory and evaluation report (Appendix E-1 of the Draft EIR and provided to the Northwest Information Center at Sonoma State University), EBMUD will prepare an electronic document on the history of Lake Chabot Waterworks District that documents the site in its entirety and is easily accessible to the public, to help compensate for the impact of the proposed project on Lake Chabot Waterworks District. A hard copy of the document will be provided to the San Leandro Main Library, Oakland Main Library, and the Castro Valley Library.

Response EJG-7

Two main fire roads lead to the dam site. The first fire road would start at the dame face within the limits of work and terminates at the intersection with Lake Chabot Road, and is approximately 2,540 feet long. The 1,800-foot segment outside of the limits of work consist of a paved 900-foot segment that is part of the West Shore public trail, which hikers and bikers frequently use throughout the day. The remaining 900-foot unpaved segment leading up to Lake Chabot Road is open to the public but is used primarily by EBMUD service vehicles. The unpaved segment is 10 feet wide and presents critical safety hazards because of limited right-of-way and the steep roadway grade (18 percent).

Significant road improvements would be required to enable large construction truck and equipment access because this hillside road is bordered by steep slopes on both sides and therefore requires significant road improvements; thus, this alternative was not considered further. Additionally, use of the fire road would result in greater recreation and biological resource impacts than the proposed project due to the necessary road improvements and closure of 1,800 more feet of the West Shore Trail. Refer to Figure 2-1, which shows this segment as "Fire Road 1."

The second fire road extends from the northern limits of work, and continues along Goldenrod Trail to the trailhead at the intersection of Grass Valley Road and Goldenrod Trail, a length of about 2.25 miles. Significant road improvements would be required to enable large construction truck and equipment access along this route, therefore this route is not considered further. Additionally, use of the fire road would result in greater recreation and biological resource impacts than the proposed project due to the necessary road improvements and closure of approximately 2 more miles of trail. Refer to Figure 2-1, which shows this segment as "Fire Road 2."



Source: AECOM 2014, EBRPD 2013

Figure 2-1: Fire Roads and Trails

As stated on page S-55 of the Draft EIR, EBMUD prepared a constructability review of 11 project options at the dam, haul routes, and temporary storage locations and "as part of this constructability analysis, both on-site and off-site stockpiles and haul routes were reviewed." These options are further described in Section 4.1.4 of the Draft EIR, under "Alternatives Considered but Not Evaluated in this Draft EIR." One of the options evaluated was the "East Haul Route", which is the Fire Road/Trail 1 described above. Under Section 15126.6 of the State CEQA Guidelines, an EIR is not required to consider alternatives that are not feasible. This includes alternative elements of a project that may be available. Therefore, addressing the use of fire roads to avoid use of surface streets is not warranted.

Please also refer to Response EJG-8, below.

Response EJG-8

The comment states that even if the fire road could not be reasonably modified to accommodate traffic, whether the fire road could mitigate traffic, air quality, and noise impacts should be evaluated. Under Section 15126.4 of the State CEQA Guidelines, the identification of feasible and enforceable mitigation measures only are required to avoid or reduce the magnitude of potentially significant impacts of the proposed project. These mitigation measures are presented and discussed in Sections 3.1 through 3.12 of the Draft EIR. The Draft EIR concludes that the proposed project would result in significant unavoidable impacts on air quality, cultural resource, and recreation. With regard to traffic and noise impacts, the Draft EIR concludes that construction-related impacts would be less than significant with mitigation incorporated and would not require additional mitigation.

Even if use of the fire roads were determined to be a feasible option, use of the fire roads in and of themselves would not serve as mitigation to reduce the following potentially significant impacts identified in the Draft EIR.

Noise Impacts

Construction activities related to the demolition of the pavilion and tower, CDSM, or Conventional Earthwork, and use of the haul routes and stockpiles would occur at the same locations within the project site, regardless of how the trucks would access the site. The potentially significant noise impact would stem from construction activities at the stockpile and excavation sites and would be less than significant with implementation of Mitigation Measure NO-1.1. These potential impacts are quantified in Table 3.9-5 and 3.9-6, and analyzed under Impact NO-1.

The Draft EIR acknowledges that truck noise on the residential street would be a single-event disturbance, and this potential impact would be less than significant with implementation of Mitigation Measure NO-1.2. If the fire roads were used, construction truck noise impacts may be slightly less than the proposed project in the residential area, but the impacts would remain less than significant with mitigation.

Traffic Impacts

As described on page 3.6-18 of the Draft EIR, the proposed project would have a potentially significant traffic impact on Benedict Drive and Estudillo Avenue. However, this would be reduced to a less-than-significant level by implementing Mitigation Measure TR-1.1, which would require the preparation and implementation of a Traffic Control Plan. The use of the fire roads would still require trucks to exit Interstate 580 and go through Benedict Drive and Estudillo Avenue. Thus, traffic impacts would be similar, but they would be less than significant with mitigation.

Air Quality Impacts

As analyzed in Section 3.7, Air Quality, the proposed project would result in short-term and temporary construction emissions. The proposed project's construction-related NOx emissions would exceed the Bay Area Air Quality Management District's (BAAQMD) thresholds of significance because of the nonattainment status of the region with respect to ozone (page 3.7-19 of the Draft EIR). The discussion on page 3.7-20 of the Draft EIR states that the "majority of haul truck emissions would result from movement of soil materials between stockpile sites and the dam construction sites." which would occur regardless of the haul route selection. The Draft EIR analyzed potential impacts on sensitive receptors under Impact AQ-3 (on page 3.7-22 of the Draft EIR). Implementation of Mitigation Measure AQ-2.1 would reduce construction-related health impacts to a less-than-significant level. Because the majority of truck emissions would result from the movement of soil between the stockpile and dam construction sites, use of the fire roads would not change the significance of this impact conclusion.

However, use of the fire roads would result in greater recreation and biological resource impacts than the proposed project. Chabot Park still would need to be closed for the excavation, stockpiling, and hauling activities, resulting in the closure of 1.34 miles of trails in the project area. Use of the fire road starting at the eastern limits of the project work boundaries would result in an additional 0.34 miles of trail closures, for a total of 1.68 miles. Use of the fire road from the northern limits of project work boundaries would result in an additional 2 additional miles of trail closures, for a total of 3.34 miles. This would result in greater displacement of trail users. The fire roads also would need improvements, such as localized widening and tree and vegetation removal along their lengths, resulting in potentially greater impacts on biological resources.

The Draft EIR identified mitigation measures in accordance with Section 15126.4 of the State CEQA Guidelines, to reduce potentially significant impacts to a less-than-significant level for the proposed project. Therefore, the Draft EIR meets the standards established in the State CEQA Guidelines, and no additional mitigation measures are required.

Response EJG-9

Refer to Response CDPM-12.

Response EJG-10

The analysis conservatively assumes that during the shift change (around 7:00 a.m. or 7:00 p.m.), about 36 workers in the previous shift would exit while all 63 workers in the next shift would enter the site. As stated under Impact TR-1, the gate would be opened 60 minutes before the start of construction, to avoid potential worker vehicle queues on neighborhood streets. Because vehicle arrivals would be dispersed over a 60-minute time frame, no substantial vehicle queuing on neighborhood streets is expected. Typically the arrival and departure of the workers would occur at separate times. The shift arriving would arrive at the site before the other shift would depart.

As a conservative assumption, if all 63 vehicles were to arrive at the same time and 36 vehicles were to exit at the exact same time, it would take approximately 4 minutes to clear 63 inbound vehicles and another 2 minutes to clear 36 outbound vehicles, using an average vehicle flow rate of 3.6 seconds per vehicle over the Estudillo Bridge. This estimate is based on the rate for a typical parking garage entry setting. A traffic model that was run for queuing analysis showed that a maximum of one car in queue would occur. This minimal delay would no cause significant impacts.

Response EJG-11

The intersection of Estudillo Avenue and Lake Chabot Road currently is operating at level of service (LOS) A (which indicates free flow or excellent conditions with short delays) with average 1.8 seconds of delay per vehicle during the PM peak hour. With the addition of approximately 105 project-generated vehicle trips, the intersection would continue to operate at LOS A with average 3.4 seconds of delay per vehicle. This indicates that 1.6 seconds of additional delay would occur for each vehicle passing through the intersection. This increase in delay would be minor and would not constitute a substantial change in vehicle movement or circulation.

Although the proposed project would add vehicles to roadways serving local residents, adding 105 vehicles during the peak period would result only in minor impacts. Nevertheless, with the limited addition of construction-related vehicles, traffic volumes would remain at levels less than the carrying capacity of the local roadways, which have a capacity of 600 to 800 vehicles per hour. Therefore, no potentially significant impacts would occur on traffic operations along Estudillo Avenue or at intersections in the project area.

Response EJG-12

During the PM peak hour, the intersection of MacArthur Boulevard and Estudillo Avenue currently is operating at LOS B with an average of 16.6 seconds of control delay per vehicle for the various movements within the intersection, as calculated by a simulation model. Detailed intersection LOS calculations are included in Appendix of this Final EIR. The proposed project would generate a total of 74 vehicles at the intersection of MacArthur Boulevard and Estudillo Avenue, of which, approximately 35 vehicles would travel on the westbound left-turn lane. As a result, delay for the westbound left-turn movement would increase from 8.6 seconds to 10.2 seconds per vehicle. Although the presence of construction traffic may be noticeable to local residents, 35 project-generated vehicle trips added to the westbound left-turn lane would not significantly affect the left-turn movement, resulting in LOS B operations (the acceptable LOS in the City of San Leandro is

LOS D or better as stated on page 3.6-18 of the Draft EIR). As stated above, with the limited addition of construction-related vehicles, traffic volumes would remain at levels less than the carrying capacity of the local roadways. Therefore, no significant impacts would occur on traffic operations along local roadways or at intersections in the project area. Mitigation Measure TR-1.1 provides for a traffic control plan, and states that "flaggers, illuminated signs, a temporary stop sign, or a combination of these methods" will be installed along Estudillo Avenue.

Response EJG-13

The schools named in the comment are located approximately 0.5 mile west of Interstate 580. Because proposed project-related traffic would use Interstate 580 and Estudillo Avenue east of freeway, no substantial overlap would occur in proposed project and school access routes, except for the intersection of MacArthur Boulevard and Estudillo Avenue.

The proposed project would add approximately 87 vehicle trips to the intersection during the AM peak hour, including 82 worker vehicles and about five truck trips. The majority of workers would arrive between 6:30 a.m. when the gate would be opened and 7:00 a.m., and they would leave after 7:00 p.m. The official school hours are between 8:00 a.m. and 3:30 p.m. for Bancroft Middle School, and between 7:15 a.m. and 3:00 p.m. for San Leandro High School. The estimated 87 trips crossing the intersection during the AM peak hour would spread between 7:00 a.m. and 8:00 a.m, around the school start time.

To provide for the safety of all users, Mitigation Measure TR-1.1 provides for a traffic control plan, and states that "flaggers, illuminated signs, a temporary stop sign, or a combination of these methods" will be installed along Estudillo Avenue."

Response EJG-14

Intersection LOS is measured from LOS A (excellent conditions) to LOS F (very poor conditions), with LOS D considered to be the threshold of acceptability in the City of San Leandro. The intersection of MacArthur Boulevard and Estudillo Avenue currently is operating at LOS B with 18.9 seconds of delay per vehicle during the AM peak hour and 16.6 seconds of delay per vehicle during the PM peak hour. Drivers appear to experience minimal delays with generally good progression of traffic at this intersection. The cause of red-light violations at this intersection is unclear. The proposed project would add minimal delays to the intersection (an average of 0.3 seconds of delay per vehicle during the AM peak hour and 0.1 seconds of delay per vehicle during the PM peak hour). Thus, changes in traffic volume would not be substantial. All construction traffic would follow the safety protocols that would be specified in the Traffic Control Plan.

Response EJG-15

The intersection of Estudillo Avenue and Benedict Drive currently is operating at LOS F, mainly because of extended delays on the northbound approach. The overall intersection operating condition is deficient because it is very difficult for vehicles on the northbound approach (Benedict Drive) to make unprotected left-turns when heavy east-west traffic occurs along Estudillo Avenue. When vehicle queues build up on Benedict Drive, flaggers would facilitate the flow of these vehicles by stopping traffic intermittently in the east-west direction as part of

Mitigation Measure TR-1.1. The use of flaggers would improve the overall intersection operating conditions.

Response EJG-16

No sidewalks are found along the approximately 1,500-foot-long stretch of Estudillo Avenue between Parker Street and the park entrance. The pedestrian access concern is an existing condition that would not be affected by the proposed project. The City of San Leandro has responsibility to develop and manage the roadway system within city limits, and to the extent that potential deficiencies exist related to roadway design along Estudillo Avenue, they are the responsibility of the City of San Leandro.

As stated under Mitigation Measure TR-1.1 on pages S-33 to S-34, 3.6-19 to 3.6-20 of the Draft EIR, advance warning signs would be posted along Estudillo Avenue to inform the public about the closure of the Chabot Park entrance at the end of Estudillo Avenue, and to minimize potential hazards associated with truck traffic on narrow roadways.

Response EJG-17

Table 3.6-4 in the Draft EIR shows that construction of the outlet works done concurrently with CDSM over day and night shifts would generate a total of 198 worker vehicle trips on a daily basis. This number is inclusive of 99 inbound and 99 outbound trips. A maximum 99 worker vehicles (not 198) at the project site could occur during a shift change. There are a sufficient number of parking spaces available in the project area to accommodate this situation.

Response EJG-18

The comment states that the traffic and circulation analysis is deficient and ignores impacts of construction on local and neighborhood traffic. The traffic and circulation analyses presented in the Draft EIR evaluate the direct, indirect, and cumulative impacts of the proposed project on all modes of transportation in the study area around the project site. The analysis considers the impacts on pedestrians, bicycle traffic, transit, and vehicles, as well as cumulative projects. In compliance with CEQA, the Draft EIR describes the potential impacts on various transportation modes and identifies mitigation measures, which is the intent of the environmental document. No significant and unavoidable impacts on traffic and circulation were identified.

Refer to Responses EJG-7 through EJG-17, which respond to each of the comments regarding traffic and circulation.

Response EJG-19

The construction staging areas would not be paved, which would generate fugitive particulate matter (PM) dust at a higher rate than paved roads. However, the proposed project would implement BAAQMD's Basic Construction Control Measures to minimize construction-related fugitive PM dust. These would include measures such as watering all exposed areas, covering all haul trucks transporting loose materials, limiting vehicle speeds on unpaved roads, and minimizing idling times. In addition, because of the proximity to sensitive receptors, the proposed project also would implement BAAQMD's Additional Construction Control

Measures, which in combination with the Basic Construction Control Measures have been determined to be able to reduce fugitive PM dust emissions by up to 75 percent (BAAQMD 2012). With respect to the comment's concern (i.e., parking area), the measures listed below (and contained in Mitigation Measure AQ-2.1) would directly reduce those emissions, while other mitigation measures would further reduce fugitive PM dust from various construction activities. These include developing a plan demonstrating that the off-road equipment would achieve a project-wide fleet average 20 percent NOx reduction and 45 percent PM reduction, washing trucks and equipment before leaving the project area, and treating the site access of 100 feet from the paved road with wood chips, mulch, or gravel. Thus, implementation of Mitigation Measure AQ-2.1 is expected to minimize construction-related fugitive PM dust to avoid exposing sensitive receptors to substantial concentrations.

Response EJG-20

BAAQMD is the primary agency responsible for assuring that the National and California Ambient Air Quality Standards (NAAQS and CAAQS, respectively) are attained and maintained in the Bay Area. BAAQMD prepared its CEQA Guidelines to assist lead agencies in air quality analysis, as well as to promote sustainable development in the region. The BAAQMD CEQA Guidelines include feasible mitigation measures to support lead agencies in mitigating air quality impacts. The mitigation referenced in Mitigation Measure AQ-2.1 is a prescribed measure from the BAAQMD CEQA Guidelines. EBMUD has chosen to implement these mitigation measures because they have been determined by BAAQMD to be feasible and sufficient to help reduce construction equipment emissions. As detailed under Mitigation Measure AQ-2.1 on pages 3.7-21 to 3.7-22 of the Draft EIR, EBMUD would implement one or more of several options to reduce air pollutant emissions, which could include use of late model engines, low-emission diesel, or other measures.

Response EJG-21

The 60 dB level was derived from the San Leandro General Plan Update 2000 Noise Contours, which were based on traffic noise monitoring and modeling that was conducted for the General Plan update. Actual noise levels at any given location could depend on various factors, such as topography, vegetation, community traffic, weather conditions, and building cover. Because ambient noise levels at nearby residences are primarily from traffic, at any given moment, the noise level could be less than 60 dBA. In such a case, construction noise less than 60 dBA may be audible, because it exceeds the instantaneous ambient noise level. With implementation of Mitigation Measures NO-1.2, NO-1.3, and NO-1.4, noise impacts would be less than significant. As shown in Tables 3.9-5 and 3.9-6 in the Draft EIR, implementation of available engine controls (such as those referenced in Mitigation Measure NO-1.1) would reduce worst case noise to 56 dBA Leq during the day and 51 dBA Leq at night. Table 3.9-1 in the Draft EIR indicates that a noise level of 50 to 60 dBA would be similar to light traffic or inside a department store.

Response EJG-22

Noise from haul trucks traveling through the neighborhood was evaluated under Impact NO-1, All Project Components—Construction Noise on page 3.9-12 of the Draft EIR:

> The noise levels generated by truck traffic that would deliver materials to the project site would be 84 dBA to residences along the route (not shown on Tables 3.9-5 and 3.9-6). However, truck volumes would vary from day to day and by construction phase. The

> addition of up to 105 external vehicle round trips per day on project vicinity roadways would be noticeable, compared to the average daily traffic (ADT) of 200 vehicles per day on Estudillo Avenue and 1,130 ADT on Lake Chabot Road (between Astor Drive and Fairmont Drive), but not as noticeable compared to the 9,700 ADT on MacArthur Boulevard, which is a high traffic volume road. This increase in truck traffic would result in short-term increases in noise levels on the local roadway network. The neighborhood surrounding the project area is considered a relatively quiet environment, within the noise contours of 60 dB Ldn (City of San Leandro 2002). Therefore, construction-related truck volumes may be noticeable on the residential streets in the project vicinity, where even one truck per hour may be noticeable.

Although truck traffic could generate intermittent noise levels of 84 dBA for each single truck passage, the average hourly noise level would be less than the significance criteria. For example, if truck trips were evenly dispersed throughout the day, then about 10 trucks would pass a sensitive receptor per hour. Assuming that noise is elevated for 15 seconds to 84 dBA during each truck passage and the ambient noise level is 60 dBA, then the average hourly noise level would be 61 dBA, which is less than the City of Oakland Daytime Noise Standard criteria of 68 dBA.

Mitigation Measures NO-1.1, NO-1.2, NO-1.3, and NO-1.4 in the Draft EIR address this impact and would reduce noise impacts to less-than-significant levels by requiring the use of noise control techniques such as appropriate mufflers, intake silencers, engine enclosures and/or acoustic shields, by providing neighbors with appropriate notice of construction activities, and limited hours of operations along haul routes.

Response EJG-23

Estimated cconstruction noise levels for the proposed project take into account mobile and stationary sources as well as noise from multiple equipment sources. Tables 3.9-5 through 3.9-6 in the Draft EIR show estimated construction noise levels at a stockpile area by adding together noise levels from a truck and one piece of earth-moving equipment. Tables 3.9-5 through 3.9-6 in the Draft EIR show estimated noise levels at the dam excavation area by adding together noise generated from CDSM, materials handling, and a hydraulic backhoe.

The proposed project would be conducted in a hilly area; however, the slopes are gradual and would not be expected to result in a canyon noise effect. An analysis of noise propagation from reflection off hillsides was evaluated, based on the law of reflection as discussed below.

As an example, assuming that a reflective hillside was 100 feet from the noise source, the attenuated noise level would be 12 dBA less because the sound wave would travel 200 feet (i.e., the original 84 dBA would be reflected back as 72 dBA). Adding two noise levels together with a differential of 12 dBA would add about 0.2 dBA to the combined noise level of the higher source (i.e., the source would increase to 84.2 dBA) because of the addition of 72 dBA to 84 dBA. This slight increase would not affect the noise analysis for the proposed project.

Because the project site is in a hilly area, noise likely would be attenuated more than the assumption used in the analysis, where a direct line of sight was used.

Response EJG-24

The noise analysis in the Draft EIR states the following on page 3.9-1:

> "In determining the daily level of environmental noise, the difference in response of people to daytime and nighttime noises must be considered. Nighttime exterior background noise levels are generally lower than daytime levels. Most household noise levels also decrease at night and exterior noise becomes more noticeable. Furthermore, most people sleep at night and are more sensitive to noise intrusion. The day-night sound level rating (L_{dn}) divides the day into daytime and nighttime with a 10 dBA weighting factor applied to nighttime levels."

The Draft EIR used a nighttime noise standard criterion of 53 dBA versus a daytime noise standard criterion of 68 dBA (see Tables 3.9-5 and 3.9-6 in the Draft EIR). The lower nighttime noise standard criterion took into account that daytime masking would be greater than potential sound masking at night.

Response EJG-25

Environmental conditions affecting noise perception include temperature, humidity, and wind speed and direction, which are each affected by time of day and season. Although perceived noise may vary from the analysis performed, no basis exists on which to assume that the results are unreasonable or would pose an impact more severe than the anticipated results that are described in the Draft EIR. The noise criteria are based on typical conditions that account for variations from a single point in time. The noise analysis completed for the proposed project was in accordance with CEQA thresholds and the maximum noise levels in the City of Oakland's noise ordinance. Implementation of Mitigation Measure NO-1.4 in the Draft EIR would provide a means for neighbors to express noise concerns, complaints, or complements to EBMUD during construction.

Response EJG-26

The human ear is less sensitive to sounds in the low frequencies compared to the higher frequencies. For example, a 50 Hz (low frequency) tone must be at a level of 85 dB to be perceived by the listener as being the same loudness as the higher frequency 1,000-Hz tone at a level of 70 dB (Earthworks 2014). The method commonly used to quantify environmental sounds involves evaluating all of the frequencies of a sound according to a weighting system reflecting that human hearing is less sensitive at low frequencies and extremely high frequencies than at the mid-range frequencies. This is called "A" weighting, and the decibel level measured is called the A-weighted sound level (dBA). A strong correlation exists between A-weighted sound levels (expressed as dBA) and community response to noise. For this reason, the A-weighted sound level has become the standard tool of environmental noise assessment and was used for the noise analysis in the Draft EIR. The noise analysis completed for the proposed project was in accordance with CEQA thresholds using accepted methodology.

A loud rock concert can generate noise levels of about 115 dBA. The maximum noise level expected to be generated by the proposed project would be 92 dBA. Based on the logarithmic decibel scale, a resident would experience the increased 23 dBA noise from a concert to be at least four times as loud as project construction noise. Although soft ground surfaces and the atmosphere are effective at absorbing mid-frequency and high frequency noise, these factors do

not tend to reduce low frequency noise to the same degree. This means that as one moves away from the source, low frequencies often become more prominent. For this reason, residents may experience low frequency noises more readily. Implementation of Mitigation Measure NO-1.4 would provide a means for neighbors to express noise concerns, complaints, or complements to EBMUD during construction.

Response EJG-27

Figure 3.4-4 in the Draft EIR shows areas where trees would be removed to facilitate construction, including the excavation area, filter ponds stockpile, park stockpile, and haul roads. Potential noise levels for nearby residents were evaluated based on proposed construction activities at these areas. The noise analysis took into account construction activities subsequent to tree removal at the construction and staging areas. Even after tree removal, trees would remain between the construction areas and sensitive receptors that would serve to reduce construction noise levels. Tables 3.9-5 and 3.9-6 in the Draft EIR used noise attenuation calculations that effectively results in a reduction of 6 dBA for every doubling of distance. For example, noise measured at 85 dBA at 50 feet from a stockpile location would attenuate by 18 dBA at 400 feet because the distance has doubled three times (100, 200, and 400 feet). The noise reduction calculated for 500 feet results in a 20 dBA reduction. As noted in Tables 3.9-5 and 3.9-6, the analysis then added noise attenuation due to the presence of trees and vegetation between construction areas and residences of 1 dBA and 3 dBA for the stockpile/haul routes and dam area, respectively.

Many sources include an additional 1.5 dBA noise reduction for each doubling of distance when sound waves cross "soft surfaces" that include vegetation and trees versus "hard surfaces" such as asphalt and concrete. Using the "soft surface" analysis would result in an additional reduction of 4.5 dBA at 400 feet because the distance has doubled three times (100, 200, and 400 feet) and an additional reduction of at least 6 dBA at 1,500 feet because the distance had doubled more than four times (100, 200, 400, 800, and 1,500 feet). Although the Draft EIR included an additional 1 dBA and 3 dBA reduction due to vegetation and trees for the stockpile/haul route and dam face, respectively, this approach underestimated the "soft surface" attenuation that would reduce noise levels by 3.5 dBA and 3 dBA for the stockpile/haul route and dam face, respectively. Therefore, using the higher "soft source" attenuation of 4.5 dBA and 6 dBA would result in higher attenuation rates and lower noise levels at sensitive receptors.

Response EJG-28

The noise analysis in the Draft EIR evaluates potential noise impacts of the project on sensitive receptors including nearby residents. Although perceived noise may vary from the analysis performed, no basis exists on which to assume that the results are unreasonable or would pose an impact more severe than the anticipated results that are described in the Draft EIR. The noise analysis completed for the proposed project was in accordance with CEQA thresholds and the maximum noise levels in the City of Oakland's noise ordinance. Refer to Responses EJG-21 through EJG-27, which respond to each of the comments regarding noise.

Response EJG-29

Several park and trail facilities are located in the area which displaced visitors could use. As shown in Table 3.10-1 of the Draft EIR, four other parks are within a 2-mile radius of the project area. In addition to those parks, a number of other recreational space options exist in the area, including tracks on school grounds within an approximately 2-mile radius (Bancroft Middle School, San Leandro High School, and John Muir Middle School). As described in Master Response 2, access to approximately 90 miles of trails still would be available in Anthony Chabot Park and Lake Chabot Regional Park. Additional options include walks through the neighborhood. Therefore, users may be distributed among a number of different facilities, thus reducing the likelihood that any one site would receive substantial physical degradation, as discussed on page 3.10-9 of the Draft EIR.

To track where the potential displaced users would visit in lieu of affected facilities would not be practical, and thus to identify substantial degradation resulting from use by displaced users would not be feasible. Thus, mitigation measures at other facilities are not identified in the Draft EIR.

Response EJG-30

Refer to Master Response 3.

Response EJG-31

Refer to Master Response 3.

Response EJG-32

The City of San Leandro and its staff would be included in EBMUD's regular communications about the proposed project. These communications typically would include postcard mailings, e-mail messages, and website updates. Communications would be based on the needs of the proposed project and also may include public meetings and/or presentations and other forms of media. In addition to regular communications, EBMUD would consult with the City of San Leandro when developing and implementing a restoration plan for Chabot Park, as discussed under Mitigation Measures AE-1.1 and BR-4.2 and in Section 2.7.4 of the Draft EIR. EBMUD also would consult with the City of San Leandro to finalize the designated truck routes, as discussed under Mitigation Measure TR-1.1 of the Draft EIR. EBMUD also would notify the City of any proposed project refinements that could affect the Chabot Park closure schedule.

Response EJG-33

No, EBMUD is not required to provide financial compensation to neighbors in the vicinity of the project. The State CEQA Guidelines acknowledge that preparation of an EIR involves some degree of forecasting (Section 15144) and Section 15002(h) states that the EIR itself does not control the way in which a project can be built or carried out. In addition, Section 15151 of the State CEQA Guidelines states that "[a]n EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of

environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible."

The Draft EIR was prepared in accordance with CEQA Statutes (PRC 21000-21177) and the State CEQA Guidelines (Title 14 California Code of Regulations Division 6, Chapter 3, Sections 15000–15387). The final design of the proposed project would be completed after certification of the Draft EIR; thus, the analysis and information in the Draft EIR and Final EIR represents EBMUD's best efforts to estimate and disclose all information that it reasonably can, in compliance with CEQA.

As stated on page 1-1 of the Draft EIR, the Draft EIR is a public document that identifies and evaluates the potential environmental effects of the proposed project, recommending mitigation measures to lessen or eliminate adverse impacts, and examining feasible alternatives to the proposed project. Financial compensation would not contribute to the mitigation of potential impact and is not a CEQA issue. The mitigation measures identified in the Draft EIR would be fully enforceable and proof of implementation, as shown in the Mitigation Monitoring and Reporting Program (MMRP) would be recorded. As stated in Section 15097(a) of the State CEQA Guidelines, which establishes requirements for an MMRP, "In order to ensure that the mitigation measures and project revisions identified in the EIR or negative declaration are implemented, the public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects." The MMRP would include details of the mitigation implementation, verification or monitoring schedule, and frequency of monitoring or reporting to ensure that mitigation implementation is adequately completed.

Implementation of the MMRP would enforce adoption of the mitigation measures that are included in the certified Final EIR.

Response EJG-34

As stated in Section 15125(a) of the State CEQA Guidelines, "An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant."

The Draft EIR evaluates the potential impacts of the proposed project relative to the baseline conditions. For example, the transportation and circulation, and the noise and vibration analyses considered the existing character of the surrounding area. Sensitive noise receptors (nearby residences) are identified on page 3.9-3 of the Draft EIR, and Mitigation Measures NO-1.1, 1.2, 1.3, and 1.4 were identified to reduce construction impacts to a less-than-significant level. The transportation and circulation analysis considered and identified potential construction impacts on Estudillo Avenue and Benedict Drive. Mitigation Measure TR-1.1 was identified to reduce construction impacts to a less-than-significant level.

As explained above in response to specific comments, mitigation measures have been proposed and would be implemented in compliance with CEQA. These mitigation measures are designed to minimize impacts of the proposed project relative to the environmental baseline, which reflects the character of the surrounding area.

2.11 Friends of San Leandro Creek

Comment Letter FSLC

835 E 14th St. San Leandro, Ca 94577

RE: Chabot Dam Seismic Upgrade Project SCH# 2013042075

Bill Maggiore, Senior Civil Engineer

East Bay Municipal Utility District

375 Eleventh Street MS 701

Oakland, CA 94607-4240

Chabot.Dam.EIR@ebmud.com

February 4, 2014

Dear Mr. Maggiore,

We wish to respond to the Draft EIR. There are several points that we feel are essential to change.

In Hydrology and Water Quality Section (3.11), San Leandro Creek is referred to as a waterway, "passing through a heavily urbanized area in the City of San Leandro via a series of concrete channels to Arrowhead Marsh". This statement is inaccurate. There is no concrete channelization from Chabot Dam until the border of the Oakland. Lower San Leandro Creek is a natural riparian corridor for approximately three miles, when it reaches the boundary of the City of Oakland around 105th Ave. FSLC-1

Also in section 3.11.2, "The Basin Plan (SFBRWQCB 2011) lists existing beneficial uses in Lower San Leandro Creek, including freshwater replenishment, cold freshwater habitat, fish migration, preservation of rare and endangered species, fish spawning, warm freshwater habitat, wildlife habitat, water contact recreation, and noncontact water recreation. No potential beneficial uses were listed for this portion of the creek." The above list of uses contradicts the underlined portion of the paragraph and should be removed. FSLC-2

While we fully understand and appreciate the fact that EMBUD perceives the Chabot Dam Upgrade Project to be centered on routine maintenance meant to protect public safety, we take exception to the fact that this project does not attempt to bring EBMUD into compliance with CADFG Code 5937-(see citation below). In addition, the DRAFT EIR mentions on page 364, "Lake Chabot currently provides non-potable irrigation water for Lake Chabot Golf Course and Willow Park Golf Course, and EBMUD is FSLC-6 cont'd FSLC-3

planning to expand the use of Lake Chabot water for other non-potable uses at a nearby country club, the Oakland Zoo, and other nearby customers." Any chemicals and/or fertilizers used by Willow Park or Lake Chabot golf courses drain into Lake Chabot, and therefore the creek. On page 371 it clearly states, "a new permanent filter and drain system would be installed on the downstream end of the dam… with an outfall discharging to San Leandro Creek… The **new drain and outfall would be likely to produce a minor increase in creek flow, benefitting habitat** but having an unsubstantial effect on the groundwater." Obviously EBMUD is clear that increased flow to the San Leandro Creek would benefit habitat, however the increase is NOT a part of their future plan. EBMUD states its preference of recreational uses rather than increasing the amount of water that is released downstream of the dam to support a Threatened and Endangered Species of Fish (Steelhead) and other habitat considerations. FSLC-3 cont'd FSLC-4 FSLC-5

We, as citizens, demand that this subject be further explored before this project is initiated.

California Fish and Game Code Section 5937. *The owner of any dam shall allow sufficient water at all times to pass through a fishway, or in the absence of a fishway, allow sufficient water to pass over, around or through the dam, to keep in good condition any fish that may be planted or exist below the dam. During the minimum flow of water in any river or stream, permission may be granted by the department to the owner of any dam to allow sufficient water to pass through a culvert, waste gate, or over or around the dam, to keep in good condition any fish that may be planted or exist below the dam, when, in the judgment of the department, it is impracticable or detrimental to the owner to pass the water through the fishway.* FSLC-6

FSLC also wishes to make clear its standing on the options for the retrofit itself. The least invasive type of construction is CDSM. We also prefer the use of the Upper Haul Route as well as the use of the Filter Pond Stockpile. FSLC-7

Sincerely,

Susan W. Levenson

Susan Levenson
Watershed Awareness Coordinator
Friends of San Leandro Creek

Response FSLC-1

The second paragraph under "San Leandro Creek" on page 3.11-2 of the Draft EIR is revised as follows to reflect the actual point at which the concrete channelization occurs:

> Downstream from Lake Chabot, Lower San Leandro Creek runs approximately 6 miles, passing through ~~a heavily urbanized area in~~ the City of San Leandro as a natural riparian corridor for approximately 3 miles and the City of Oakland ~~via a series of~~ through concrete channels before reaching Arrowhead Marsh and emptying into San Leandro Bay (Figure 3.11-1). Human-made weirs, levees, bridges and other hydraulic structures downstream from the dam were designed by taking into account the presence of the dam.

Response FSLC-2

The comment refers to existing beneficial uses, whereas the underlined statement refers to potential beneficial uses in the future.

Response FSLC-3

If non-potable water from Lake Chabot is not available, then these golf courses would be supplied potable water for their use. The seismic retrofit of Lake Chabot Dam in no way would change the amount or quality of run-off from the golf courses.

In any event, Watershed Protection Preventative management is a key element of EBMUD's environmentally sensitive watershed management programs. EBMUD minimizes the use of pesticides and chemicals on the watershed through integrated pest management and uses environmentally sustainable methods of removing and preventing growth of non-native or destructive plans or controlling animal populations. Erosion is monitored and controlled to minimize silt deposits in the reservoir.

Response FSLC-4

Refer to Response FSLC-6 regarding creek flow.

Response FSLC-5

The comment is incorrect; the Draft EIR does not make such a statement about EBMUD's preference. The discussion on page 2-1 of the Draft EIR states, "Lake Chabot serves four main functions: non-potable water supply, emergency water supply, conservation/storage of local runoff, and recreation." With regard to steelhead and the creek, the discussion on page 2-5 of the Draft EIR states, "Separately and unrelated to the proposed project, EBMUD's Natural Resources Department is meeting with creek stakeholders including Friends of San Leandro Creek to discuss lake releases to San Leandro Creek." Furthermore, the discussion on page 3.4-34 of the Draft EIR states, "San Leandro Creek is located southwest of the excavation area and has moderate potential to support steelhead. Impact analysis for steelhead in Lower San Leandro Creek evaluated potential direct and indirect impacts on the species resulting from proposed construction activities. The proposed project would not alter water release quantities or schedule from Lake Chabot to San Leandro Creek, the dam spillway components, or operations and/or management of Lake Chabot."

Response FSLC-6

The Draft EIR evaluated potential impacts in compliance with the State CEQA Guidelines. Under Section 15378(a)(1) of the State CEQA Guidelines, a "project" is defined as the whole of an action consisting of "an activity directly undertaken by any public agency including but not limited to public works construction and related activities clearing or grading of land, improvements to existing public structures, enactment and amendment of zoning ordinances, and the adoption and amendment of local General Plans or elements thereof pursuant to Government Code Sections 65100-65700." For the proposed project, the construction activities to be undertaken by EBMUD would be associated with upgrading the dam and retrofitting the outlet works. As described on page 3.4-34 of the Draft EIR, "The proposed project would not alter water release quantities or schedule from Lake Chabot to San Leandro Creek, the dam spillway components, or operations and/or management of Lake Chabot." Because no changes would occur to the reservoir operation, implementation of the proposed project would not result in potential impacts associated with dam operation and associated water releases. Modification to reservoir operation in relation to California Department of Fish and Game Code 5937 would not be applicable to the proposed project. EBMUD's involvement in addressing steelhead recovery is described below. The Draft EIR meets the standards established in the State CEQA Guidelines, by evaluating potential impacts and identifying appropriate mitigation measures to reduce potentially significant impacts of the construction activities associated with the seismic upgrade.

Based on input received during the proposed project's public outreach program, EBMUD understands that creek flows are a concern of the Friends of San Leandro Creek and other groups. EBMUD's outreach efforts are discussed on page 2-5 in Section 2.2.2 of the Draft EIR: "Separately and unrelated to the proposed project, EBMUD's Natural Resources Department is meeting with creek stakeholders including Friends of San Leandro Creek to discuss lake releases to San Leandro Creek." EBMUD met with the Friends of San Leandro Creek to discuss creek flow concerns in January and March 2014, and the group tentatively plans to meet quarterly. In the outreach efforts, EBMUD stated that the interest groups need to establish goals, an approach to achieve these goals, and identify stakeholders. This ongoing discussion will need further input from multiple agencies and interest group stakeholders. Lake operation is complicated by multiple issues, including watershed hydrology; constraints on recreation, water supply, and flood control; stream and riparian habitat conditions and encroachments, and fish needs (i.e., water levels, habitat for spawning and rearing). Although EBMUD continues to engage in this process, the proposed project would not negatively affect stream flows, and therefore no mitigation would be required.

In addition, EBMUD is a participating agency in support of the California Central Coast (CCC) Steelhead Recovery Plan that currently is being developed. EBMUD has been active in sharing data and reviewing information. EBMUD supports and is committed to the development of the CCC Steelhead Recovery Plan, to strategically conserve and recover CCC steelhead. However, the proposed project is not the appropriate mechanism for implementing actions that may be defined in the Steelhead Recovery Plan. Appropriate actions would be defined as the Plan is developed. In the meantime, performing the Chabot Dam seismic upgrade in a timely fashion is necessary and is not related to the stream flow issue.

Response FSLC-7

The comment expresses preference for the CDSM construction method and use of the Upper Haul Route and Filter Pond Stockpile. This preference is acknowledged.

3 Document Revisions

3.1 Introduction

This chapter presents revisions that have been made to the Draft EIR text. These revisions include: minor corrections made by the EIR authors to improve clarity; corrections, additions, or clarifications requested by a specific comment; or staff-initiated text changes to update information presented in the Draft EIR. The text revisions are organized according to the type of text change (i.e., resulting from responses to comments versus staff-initiated) and by the chapter and page number that appear in the Draft EIR. Single underlined text represents language that has been added to the Draft EIR; text with ~~strikethrough~~ has been deleted from the Draft EIR.

3.2 Draft EIR Revisions

3.2.1 Staff-Initiated Revisions to the Draft EIR

The numbering for Mitigation Measure CR-1.2 has been corrected to Mitigation Measure CR-2.1 and revised as follows on pages S-29, 3.5-16, 4-17, and 4-31 of the Draft EIR:

> Mitigation Measure CR-~~1.2~~2.1: Stop work if prehistoric or historic archaeological resources are discovered, assess the significance of any find, and implement recovery plan, as required.

The text on page S-10 of the Draft EIR following the bullet points is revised as follows to reflect the objectives listed on page 4-5 of the Draft EIR:

The tower was evaluated considering the following additional objectives:

- all structures should serve operational functions. The project should avoid building, retrofitting, or maintaining features not related to the storage or conveyance of water; and
- the outlet works retrofit should minimize the potential for earthquake damage to the outlet works.
- The outlet works retrofit should minimize future maintenance requirements.

Table S-1 on page S-12 of the Draft EIR is revised as follows:

Cultural Resources	Both construction options have a significant and unavoidable impact associated with the removal of the outlet tower and would require the same mitigation measures. Impacts to cultural resources would be similar for both options.	CR-1.1, 2.1 ~~1.2~~, and 4.1	CR-1.1, 2.1 ~~1.2~~, and 4.1

Table S-2 on pages S-30 and S-31 of the Draft EIR is revised as follows:

Impact CR-1: The proposed project would cause a substantial adverse change in the significance of a historical resource.	Potentially Significant	**Mitigation Measure CR-1.1: Produce and distribute an interpretive/ educational document about the Lake Chabot Waterworks District.** As an addition to the existing on-site interpretive panels of the Lake Chabot Waterworks District and the cultural resources inventory and evaluation report (**Appendix E-1** of the Draft EIR and provided to the Northwest Information Center at Sonoma State University), EBMUD will prepare an electronic document on the history of Lake Chabot Waterworks District that documents the site in its entirety and is easily accessible to the public, to help compensate for the impact of the proposed project on Lake Chabot Waterworks District. A hard copy of the document will be provided to the San Leandro Main Library, Oakland Main Library, and the Castro Valley Library. ~~**Mitigation Measure CR-1.2: Stop work if prehistoric or historic archaeological resources are discovered, assess the significance of any find, and implement recovery plan, as required.**~~ ~~Cultural resources awareness training will be provided to construction and contractor staff before ground-disturbing activity. This training will explain the potential to encounter cultural material during project-related ground-disturbance activities and the requirements for responding to such unanticipated discoveries.~~ ~~If any prehistoric or historic cultural material is discovered during ground-disturbing activities, work within 100 feet of the discovery will be halted, and a qualified archaeologist will be consulted immediately to designate an appropriate stop work area and to assess the significance of the find,~~	Significant and Unavoidable

		~~according to Section 15064.5 of the State CEQA Guidelines.~~	
		~~If it is determined that project construction may damage a historical resource or a unique archaeological resource, mitigation will be implemented, in accordance with Section 21083.2 of the PRC and Section 15126.4 of the State CEQA Guidelines, with a preference for preservation in place. If avoidance is infeasible, project impacts may be mitigated through the implementation of an archaeological data recovery plan developed by the evaluating archaeologist. This plan, which would include recommendations for the treatment of discovered cultural material, will be submitted to EBMUD for review. Upon approval, project construction activity within the area of the discovery may resume. The qualified archaeologist will then prepare and submit to EBMUD a report documenting the methods employed and results. On review and approval by EBMUD, a copy of the report will be submitted to the Northwest Information Center in Rohnert Park, California. Work may proceed at other project work sites while mitigation for historical resources or unique archaeological resources is being carried out.~~ ~~Additionally, in accordance with Section 5097.993 of the PRC, EBMUD will inform construction workers that the collection of any Native American artifact is prohibited by law.~~	
Impact CR-2: The proposed project would cause a substantial adverse change in the significance of an archaeological resource.	Potentially Significant	~~Implement **Mitigation Measure CR-1.2.**~~ **Mitigation Measure CR-2.1: Stop work if prehistoric or historic archaeological resources are discovered, assess the significance of any find, and implement recovery plan, as required.** Cultural resources awareness training will be provided to construction and contractor staff before ground-	Less than Significant

		disturbing activity. This training will explain the potential to encounter cultural material during project-related ground-disturbance activities and the requirements for responding to such unanticipated discoveries. If any prehistoric or historic cultural material is discovered during ground-disturbing activities, work within 100 feet of the discovery will be halted, and a qualified archaeologist will be consulted immediately to designate an appropriate stop work area and to assess the significance of the find, according to Section 15064.5 of the State CEQA Guidelines. If it is determined that project construction may damage a historical resource or a unique archaeological resource, mitigation will be implemented, in accordance with Section 21083.2 of the PRC and Section 15126.4 of the State CEQA Guidelines, with a preference for preservation in place. If avoidance is infeasible, project impacts may be mitigated through the implementation of an archaeological data recovery plan developed by the evaluating archaeologist. This plan, which would include recommendations for the treatment of discovered cultural material, will be submitted to EBMUD for review. Upon approval, project construction activity within the area of the discovery may resume. The qualified archaeologist will then prepare and submit to EBMUD a report documenting the methods employed and results. On review and approval by EBMUD, a copy of the report will be submitted to the Northwest Information Center in Rohnert Park, California. Work may proceed at other project work sites while mitigation for historical resources or unique archaeological resources is being carried out. Additionally, in accordance with Section 5097.993 of the PRC, EBMUD	

		will inform construction workers that the collection of any Native American artifact is prohibited by law.	

Table S-2 on page S-49 of the Draft EIR is revised as follows:

Impact HZ-2. The proposed project would create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the likely release of hazardous materials into the environment.	Potentially Significant	Implement **Mitigation Measure AQ-2.1.**	Less than Significant

The third paragraph on page 2-5 of the Draft EIR is revised as follows:

> Lake water is normally released through the outlet works to San Leandro Creek at approximately 80 gallons per minute. In the event that the reservoir needs to be lowered, such as in anticipation of large rainfall events, blowoff ~~the~~ releases can be up to 67,000 gallons per minute (150 cubic feet per second). The term "blowoff" refers to high volume releases from the dam discharge outlet. Such releases typically occur intermittently from the fall through spring; normal releases are maintained at all other times. Separately and unrelated to the proposed project, EBMUD's Natural Resources Department is meeting with creek stakeholders including Friends of San Leandro Creek to discuss lake releases to San Leandro Creek.

The first whole paragraph on page 2-18 of the Draft EIR is revised as follows:

> Prior to excavation activities, the lake surface water level may need to be lowered to ensure stability of the dam. To lower the surface water level, blowoff releases to San Leandro Creek ~~greater than the typical 80 gallons per minute~~ may be required and would take place in months where blowoffs typically take place.~~;~~ T~~t~~he release rate and duration of release would depend on the amount of rainfall, lake levels prior to construction, and the required lake level during construction. The lake would remain in service during construction activities, at a surface water level of 211 feet or greater, which may be lower than typical.

The last paragraph on page 2-19 and first paragraph on page 2-20 of the Draft EIR are revised as follows:

> The excavated soil ~~and CDSM spoil~~ would bulk (increase in volume) by an estimated 25 percent above the initial volume during transport and, as a result, the volume of soil transported would be approximately 15,000 cy. The granular CDSM spoil would bulk during transportation by an estimated 15 percent ~~above the volume at the stockpile~~ and, as a result, the volume of CDSM spoil transported would be approximately 23,000 to 30,500 cy. The total volume of soil and CDSM spoil transported to the stockpile would be 38,000 to 45,500 cy. This volume would be reduced to 33,000 to 39,500 cy at the stockpile because of compaction that occurs as the materials are placed at the stockpile.
>
> Approximately 5,000 to 7,000 cubic yards of imported sand and gravel would be required for the filter and drain system. These materials would be transported from off-site sources and, depending on the delivery schedule, some of these materials may be temporarily stockpiled

before placement at the dam. Imported filter material would not bulk substantially during transport and stockpile. The stockpiled filter and drain material would be stored separately from the stockpile of the excavated dam soil and spoil. The quantities are summarized in **Table 2-2**.

Table 2-2 on page 2-20 of the Draft EIR is revised as follows:

Table 2-2
Summary of Quantities for the CDSM Option

Item	Initial Volume	Transported Volume~~(Initial + 25%)~~	Stockpile Volume~~(Initial + 10%)~~
Excavated Soil	12,000 cy	15,000 cy	13,000 cy
Granular Spoil	20,000 to 26,500 cy	23,000 to 30,500 cy	20,000 to 26,500 cy
Imported Filter Material	5,000 to 7,000 cy	5,000 to 7,000 cy[1]	5,000 to 7,000 cy[1]
Total	**37,000 to ~~45~~,500 cy**	**~~43~~,000 to ~~47~~,500 cy**	**38,000 to ~~46~~,500 cy**

[1] ~~Imported filter material would not bulk significantly.~~ Source: Data compiled by AECOM in 2013

Table 3.5-2 on page 3.5-19 of the Draft EIR is revised as follows:

	CDSM				Conventional Earthwork			
	Outlet Works, CDSM, Filter Pond Stockpile and/or Park Stockpile, Upper Haul Route	**Outlet Works, CDSM, Filter Pond Stockpile and/or Park Stockpile, Upper & Lower Haul Route**	**Outlet Works, CDSM, Filter Pond Stockpile and/or Park Stockpile, Upper Haul Route**	**Outlet Works, CDSM, Filter Pond Stockpile and/or Park Stockpile, Upper & Lower Haul Route**	**Outlet Works, Conventional Earthwork, Filter Pond & Park Stockpiles, Upper Haul Route**	**Outlet Works, Conventional Earthwork, Filter Pond & Park Stockpiles, Upper & Lower Haul Route**	**Outlet Works, Conventional Earthwork, Park Stockpile, Upper Haul Route**	**Outlet Works, Conventional Earthwork, Park Stockpile, Upper & Lower Haul Route**
Impact CR-1. The proposed project would cause a substantial adverse change in the significance of a historical resource (Criterion 1).	SU Mitigation Measures CR-1.1~~ and CR-1.2~~	SU Mitigation Measures CR-1.1~~ and CR-1.2~~	SU Mitigation Measures CR-1.1 ~~and CR-1.2~~	SU Mitigation Measures CR-1.1 ~~and CR-1.2~~	SU Mitigation Measures CR-1.1~~ and CR-1.2~~	SU Mitigation Measures CR-1.1~~ and CR-1.2~~	SU Mitigation Measures CR-1.1 ~~and CR-1.2~~	SU Mitigation Measures CR-1.1 ~~and CR-1.2~~
Impact CR-2. The proposed project would cause a substantial adverse change in the significance of an archaeological resource (Criterion 2).	LTSM Mitigation Measure CR-2.1~~1.2~~	LTSM Mitigation Measure CR-2.1~~1.2~~	LTSM Mitigation Measure CR-2.1~~1.2~~	LTSM Mitigation Measure CR-2.1~~1.2~~	LTSM Mitigation Measure CR-2.1~~1.2~~	LTSM Mitigation Measure CR-2.1~~1.2~~	LTSM Mitigation Measure CR-2.1~~1.2~~	LTSM Mitigation Measure CR-2.1~~1.2~~

3.2.2 Revisions in Response to Draft EIR Comments

After the third sentence and before the fourth sentence in the second paragraph on page 2-18 of the Draft EIR the following paragraphs are added:

> . . .which may be lower than typical. . .
>
> If the reservoir needs to be lowered to elevation 211 feet, then lowering would begin as early as December 2015. The reservoir would remain restricted for the period of construction. Based on historical hydrology, the reservoir would return to elevation 219 feet by winter 2016–2017 in a wet year (where 9 out of 10 years is drier) and by spring 2017 in a normal precipitation year. In a dry year (where 1 out of 10 years is drier), it would take more than 1 year to return to elevation 219 feet.
>
> If the reservoir needs to be lowered to elevation 216 feet, then lowering would begin as early as December 2015. The reservoir would remain restricted for the period of construction. Based on historical hydrology, the reservoir would return to elevation 219 feet by winter 2016–2017 in a wet year (where 9 out of 10 years is drier) or a normal precipitation year. In a dry year (where 1 out of 10 years is drier), it would take more than 1 year to return to elevation 219 feet.
>
> The time frame. . .

The text from the first full paragraph on page 2-34 of the Draft EIR is revised as follows:

> The main gate would be opened by EBMUD's contractor 60~~30~~ minutes before the start of construction to avoid potential vehicle queues on the neighborhood streets.

The text of the third sentence in the first paragraph on page 3.6-19 of the Draft EIR is revised as follows:

> As described in Section 2.11.4, Access Modifications, the park gate would be open 60~~30~~ minutes before the start of construction to further eliminate any worker vehicle backup on the neighborhood street.

The text of the second to last sentence under "Parking Use" on page 3.6-21 of the Draft EIR is revised as follows:

> To allow workers to park on site, the main gate will be opened 60~~30~~ minutes before the start of construction to avoid potential worker vehicle queues on neighborhood streets.

The text of the second sentence in the first paragraph on page 3.9-9 of the Draft EIR is revised as follows:

> As stated in Section 2.10, Environmental Controls, the construction specifications would require site access to be open 60~~30~~ minutes before the start of the work shift.

Mitigation Measure NO-1.2 on pages S-40 and 3.9-13 of the Draft EIR is revised as follows:

> Mitigation Measure NO-1.2: Notify residents in the immediate project vicinity in advance of construction activities.
>
> EBMUD or its construction contractor(s) will notify property owners and tenants within 300 feet of the edge of the construction right-of-way and along the haul routes at least 2 weeks in advance of construction activities. EBMUD will coordinate with the City of San Leandro and EBRPD to determine appropriate locations for signage. Property owners and tenants will be notified by first-class mail and signage will be posted at the Estudillo Avenue main entrance to Chabot Park, leading to the project area.

The text of Mitigation Measure BR-1.2 on pages S-20 and 3.4-25 of the Draft EIR is revised as follows:

> Mitigation Measure BR-1.2: Conduct biological monitoring during initial ground disturbance.
>
> A qualified wildlife biologist will be present at all times during initial ground disturbance or vegetation removal activities. The biologist will remain on-site until initial ground disturbance is completed (after clearing and grubbing. The biologist will have the authority to stop work if a listed species is encountered or a violation of any regulatory permit issued for the project occurs. The word "listed" species refers to any plants and animals identified as candidate, sensitive, or special-status species by the U.S. Fish and Wildlife Service (USFWS), or California Department of Fish and Wildlife (CDFW) (formerly the California Department of Fish and Game), or in local plans, policies, or regulations. After coordination with the appropriate regulatory agencies, a biologist who is qualified to handle the listed species on-site will relocate any individuals that may be affected by construction activities. If work is stopped, the biologist or on-site monitor will notify the regulatory agencies in accordance with permit requirements.

The text of Mitigation Measure CR-1.1 on pages S-3 and 3.5-14 of the Draft EIR is revised as follows:

> Mitigation Measure CR-1.1: Produce and distribute an interpretive/educational document about the Lake Chabot Waterworks District.
>
> As an addition to the existing on-site interpretive panels of the Lake Chabot Waterworks District and the cultural resources inventory and evaluation report (**Appendix E-1** of the Draft EIR and provided to the Northwest Information Center at Sonoma State University), EBMUD will prepare an electronic document on the history of Lake Chabot Waterworks District that documents the site in its entirety and is easily accessible to the public, to help compensate for the impact of the proposed project on Lake Chabot Waterworks District. A hard copy of the document will be provided to the San Leandro Main Library, Oakland Main Library, and the Castro Valley Library.

The first paragraph under "Outlet Tower Works" on page 3.2-16 of the Draft EIR is revised as follows:

> Removal of the pavilion and outlet tower would result in minor changes to the visual character fromof the West Shore Trail, as shown in **Photo 3.2-18.** Currently, the project foreground is dominated by the lake. The spillway entrance is visible in the center of the photo, and the outlet works are to the right. These built features do not extend above the hillside and treeline. The Vvisual character (as shown in **Photo 3.2-18**) consists mainly of is dominated by the lake and vegetation. Except for removal of the outlet tower and pavilion, the other dam features would remain similar to the existing ones after construction (as shown

under "Proposed" in **Photo 3.2-18**). The pavilion and outlet tower are not listed as scenic resources in the City of Oakland, Alameda County, or Castro Valley Area General Plans. Although the pavilion and outlet tower are recognizable to visitors at Lake Chabot (as shown in **Photo 3.2-18**), removal of these facilities would not substantially degrade the existing visual quality or character of the dam area because the majority of the visual character—the lake, spillway, and surrounding vegetated area—would remain~~because they are only easily visible from a distance~~ (see **Photo 3.2-18**). The pavilion has also become a target of trespassers and is covered with graffiti. Its removal would restore the outlet works and pavilion site to a natural setting, which would be more consistent with the visual character of the surrounding vegetated area~~/wildland park~~ setting. Therefore, removal of the pavilion and outlet tower would have a *less-than-significant* impact on aesthetics.

The third paragraph on page 3.10-9 of the Draft EIR is revised as follows:

Because of the location of the project work sites and potential safety risks, mitigation to open the trails on the weekends or during special events would not be possible, nor would it be possible to divert the trail around the project work sites. Due to topography, vegetation, and development, providing a temporary trail re-alignment around the project work limits is not feasible, either to connect the Chabot Park to the Bass Cove trail or West Shore Trail adjacent to Lake Chabot or to maintain the loop around Lake Chabot. Therefore, this impact would be *significant and unavoidable*.

The second paragraph under "San Leandro Creek" on page 3.11-2 of the Draft EIR is revised as follows:

Downstream from Lake Chabot, Lower San Leandro Creek runs approximately 6 miles, passing through ~~a heavily urbanized area in~~ the City of San Leandro as a natural riparian corridor for approximately 3 miles and the City of Oakland ~~via a series of~~ through concrete channels before reaching Arrowhead Marsh and emptying into San Leandro Bay (**Figure 3.11-1**). Human-made weirs, levees, bridges and other hydraulic structures downstream from the dam were designed by taking into account the presence of the dam.

The last paragraph on page 3.12-5 of the Draft EIR is revised as follows:

CCR Title 27, Division 1, Subdivision 4, Chapter 1 provides for the regulation and administration of the CUPAs. In the project area, the CUPAs are the ~~San Leandro Fire Department~~San Leandro Environmental Services Section and the Oakland Fire Department.

The "San Leandro Fire Department" section on page 3.12-7 of the Draft EIR is revised as follows:

San Leandro Environmental Services Section~~Fire Department~~

San Leandro Environmental Services Section ~~Fire Department~~ is the CUPA regulating underground storage tanks (USTs) and hazardous materials business plans (HMBPs) in the City of San Leandro portion of the project area.

The sentence prior to Mitigation Measure HZ-2.1 on page 3.12-11 of the Draft EIR is revised as follows

> However, implementation of **Mitigation Measures HZ-2.1** and **AQ-2.1** would reduce the potentially significant impact related to NOA to a *less-than-significant* level.

The text of Mitigation Measure HZ-2.1 on pages S-50 and 3.12-11 of the Draft EIR is revised as follows:

> Mitigation Measure HZ-2.1: Perform project construction activities in accordance with the Asbestos Dust Mitigation Plan.
>
> Because soils to be disturbed are confirmed to contain NOA, project construction activities, including excavation with either the CDSM or Conventional Earthwork option, soil stockpiling, road construction, and demolition will be performed under an Asbestos Dust Mitigation Plan (ADMP), in accordance with the Air Toxics Control Measures (ATCM) as administered by BAAQMD, to reduce public and worker exposure to NOA by employing the best available dust mitigation practices. EBMUD, as part of the ADPM, will conduct the comprehensive air monitoring. The ADMP shall specify site-specific measures that would be taken to minimize emissions of NOA dust and to ensure that asbestos does not exceed BAAQMD approved levels at the air monitoring locations during construction. EBMUD shall include all applicable dust mitigation measures set forth in the ADMP for the project construction activities.
>
> Examples of dust control measures that may be implemented include the measures identified in the ATCM as well as project specific measures included in Mitigation Measure AQ-2.1. As provided for in the ATCM, alternative measures that provide an equivalent level of dust control may be included in the ADMP subject to BAAQMD authorization. The ADMP shall include, but not limited to, the following dust control measures for construction activities in NOA containing areas:
>
> - Installation of screens, fencing or any other material on the property line to mark the area of activity not open to the public
> - Storage piles shall be stabilized when inactive for more than 7 days by adequately wetting, establishing surface crusting, chemical dust suppressant, covering with tarps or vegetative cover, installation of wind barriers around three sides or open areas, or any measure as determined effective.
> - Visible track-out on paved public road must be cleaned using wet sweeping or HEPA filter equipped vacuum device within 24 hours.

4 References

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