## Response to Comments on the Initial Study/Proposed Mitigated Negative Declaration

## El Dorado Irrigation District Folsom Lake Intake Improvements Project

Prepared for:



El Dorado Irrigation District

March 2019

Prepared by:

Scientists



Response to Comments on the Initial Study/Proposed Mitigated Negative Declaration

## El Dorado Irrigation District Folsom Lake Intake Improvements Project

#### Prepared for:

El Dorado Irrigation District 2890 Mosquito Road Placerville, CA, 95667

#### Contact:

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#### Contact:

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March 2019

Project No. 1802338.26.1

## **Response to Comments**

#### 1.1 Introduction

The El Dorado Irrigation District (EID) received comments on the Initial Study/Proposed Mitigated Negative Declaration (IS/MND) from Jim Micheaels of the Gold Fields District of California State Parks (State Parks) and Jordan Hensley of the Central Valley Regional Water Quality Control Board (CVRWQCB).

EID has also consulted with tribal representatives from the United Auburn Indian Community, the Wilton Rancheria, and the Shingle Springs Band of Miwok Indians in accordance with AB 52 for Tribal Cultural Resources.

#### 1.2 Comments and Responses

#### 1.2.1 Gold Field District of California State Parks

This comment letter provides several specific comments, which are reproduced below in *italics*.

#### Comment 1

1. Use of boat ramps/launch facilities. Project description indicates project construction will require use of boat ramps to launch and stage barges for in-water work. The marina at Browns Ravine is identified as one potential launch location, but other boat ramps at Folsom lake could be considered.

California State Parks operates and maintains the boat ramps and launch areas at Folsom Lake, including Browns Ravine. The Folsom Lake Marina at Browns Ravine is operated by a concessionaire through a contract with State Parks. EID needs to work directly with California State Parks for approval to use boat ramps or other launch facilities for the project. We need to insure there is minimal disruption to concessionaire or public use. Please contact Folsom Sector Superintendent Rich Preston (916) 988-0205 regarding use of Folsom Lake boat launch facilities. Rather than relying on the contractor to contact State Parks, we need to work out the timing, duration, hours of operation and use of the boat launch facilities directly with EID, ahead of your contractor.

#### Response 1

EID acknowledges the concern expressed by State Parks, and will consult directly with the Folsom Sector Superintendent related to the timing, duration, hours of operation, and use of the boat launch facilities.

#### Comment 2

2. In Water Work. Project description indicates in-water work will occur from 2 barges between October and February. How will the in-water construction area be identified and delineated to keep recreation water use out of the construction area? Buoys, buoy line, signs, etc? State Parks would like to work with EID regarding the type of signage and buoys to insure recreating public is notified and

limited from entering the construction area. Will navigation warning lights be included on the barges or other equipment staged on the Lake during construction? Will the facility require any permanent buoy markers?

#### Response 2

EID acknowledges the concern expressed by State Parks, and will consult directly with the Folsom Sector Superintendent to identify appropriate measures to 1) delineate the in-water construction area to keep recreation water use out of the construction area, 2) include navigation lights on barges or other equipment staged on the lake, and 3) determine if permanent buoy markers are needed following project construction.

#### Comment 3

3. Bridge Crane. The project includes construction of a bridge crane, 25' high by 25' wide by 65' long. The structure would be along the Folsom Lake shoreline. Does EID have photographs of similar structures or an artist's rendition of the proposed structure in this setting? (color, materials, finish, truss structure?) It is difficult to understand and determine the visual impact without seeing what the structure would look like. Darker or muted, earth tone (greens, browns, etc) colors with non-reflective finish would blend in better with the background.

#### Response 3

The bridge crane finish will be matte brown or green. The crane will be located near the base of the steep slope of the project site and will not extend above existing structures located upslope. The crane is anticipated to blend in with the background of existing structures located at the site and is not expected to substantially change the visual character of the existing site. Figure 2-3 in the Initial Study depicts the approximate location of the crane on the project site. Drawings of the crane are attached.

#### 1.2.2 Central Valley Regional Water Quality Control Board

This comment letter provides general regulatory information and permitting requirements. The letter does not identify any specific comments related to the Folsom Lake Intake Improvements Project or the analysis contained in the IS/MND, nor is any additional information requested from EID. Section II of the letter identifies permitting requirements; the following responses identify permitting expectations specific to the Folsom Lake Intake Improvements Project.

#### Comment 1

#### Construction Storm Water General Permit

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit), Construction General Permit Order No. 2009-009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The

Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP).

#### Response 1

The District will obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit), Construction General Permit Order No. 2009-009-DWQ for the Project. Section 2.6 on page 2-9 of the Initial Study/Mitigated Negative Declaration (IS/MND) identifies this as a required permit for the Project. Additionally, mitigation measure WQ-1 from the Mitigation, Monitoring, and Reporting Program (MMRP) requires that the construction contractor prepare and implement a SWPPP in accordance with Construction General Permit Order No. 2009-009-DWQ

#### Comment 2

#### Phase I and II Municipal Separate Storm Sewer System (MS4) Permits

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase IMS4 Permit this project applies to, visit the Central Valley Water Board website at:

http://wviyrw.waterboards.ca.gdv/centralvalley/waterJssues/storm water/municipal pei-mits/.

For more information on the Phase I MS4 permit and who it applies to, visit the State Water Resources Control Board at:

http://www.waterboards.ca.gov/water issues/programs/stormwater/phase ii municipal.shtml

#### Response 2

The Project does not involve municipal storm sewer systems; therefore, neither a Phase I or II MS4 permit is required.

#### Comment 3

#### Industrial Storm Water General Permit

Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 97-03-DWQ.

For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water\_issues/storm\_water/industrial\_general\_permits/index.shtml.

#### Response 3

The Project does not involve storm water discharges associated with industrial sites; therefore, an Industrial Storm Water General Permit is not required.

#### Comment 4

#### Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACOE). If a Section 404 permit is required by the USACOE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements.

If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACOE at (916) 557-5250.

#### Response 4

On March 8, 2019, the District submitted a pre-construction notification to the Army Corps of Engineers to seek coverage under Nationwide Permit No. 12 – Utility Line Activities. Section 2.6 on page 2-9 of the IS/MND identifies this as a required permit for the Project. On March 7, 2019, the District also submitted a Notification of Streambed Alteration to the California Department of Fish and Wildlife in accordance with Section 1602 of the California Department of Fish and Game Code and an application for Water Quality Certification to the Central Valley Regional Water Quality Control Board pursuant to Section 401 of the Clean Water Act.

#### Comment 5

#### Clean Water Act Section 401 Permit - Water Quality Certification

If an USACE permit, or any other federal permit, is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications.

#### Response 5

On March 7, 2019, the District submitted an application for Water Quality Certification to the Central Valley Regional Water Quality Control Board pursuant to the Section 401 of the Clean Water Act. Section 2.6 of the IS/MND (page 2-10) identifies this as a required permit for the Project.

#### Comment 6

#### Waste Discharge Requirements – Discharges to Waters of the State

If USACE determines that only non-jurisdictional waters of the State (i.e., "non-federal" waters Of the State) are present in the proposed project area, the proposed project will require, a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation.

For more information on the Water Quality Certification and WDR processes, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/help/business\_help/permit2.shtml.

#### Response 6

The Project does not involve discharges to non-Federal waters; therefore, a Waste Discharge Requirement permit is not required.

#### Comment 7

#### **Dewatering Permit**

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Risk General Order) 2003-0003 or the Central Valley Water Board's Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Risk Waiver) R5-2013-0145. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

For more information regarding the Low Risk General Order and the application process,

visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/board\_decisions/adopted\_orders/water\_quality/2003/wqo/wqo2003-0003.pdf

For more information regarding the Low Risk Waiver and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/board\_decisions/adopted\_orders/waivers/r5-2013-0145 res.pdf

#### Response 7

The Project does not involve construction dewatering and it is not necessary to discharge groundwater to waters of the United States; therefore, the Project does not require coverage under a National Pollutant Discharge Elimination System permit.

#### Comment 8

#### Regulatory Compliance for Commercially Irrigated Agriculture

If the property will be used for commercial irrigated agricultural, the discharger will be required to obtain regulatory coverage under the Irrigated Lands Regulatory Program.

There are two options to comply:

- 1. Obtain Coverage Under a Coalition Group. Join the local Coalition Group that supports land owners with the implementation of the Irrigated Lands Regulatory Program. The Coalition Group conducts water quality monitoring and reporting to the Central Valley Water Board on behalf of its growers. The Coalition Groups charge an annual membership fee, which varies by Coalition Group. To find the Coalition Group in your area, visit the Central Valley Water Board's website at: https://www.waterboards.ca.gov/centralvalley/water\_issues/irrigated\_lands/regulatory\_information/for\_growers/coalition\_groups/ or contact water board staff at (916) 464-4611 or via email at lrrLands@waterboards.ca.gov.
- 2. Obtain Coverage Under the General Waste Discharge Requirements for Individual Growers, General Order R5-2013-01 00. Dischargers not participating in a third-party group (Coalition) are regulated individually. Depending on the specific site conditions, growers may be required to monitor runoff from their property, install monitoring wells, and submit a notice of intent, farm plan, and other action plans regarding their actions to comply with their General Order. Yearly costs would include State administrative fees (for example, annual fees for farm sizes from 11-100 acres are currently \$1,277 + \$8.53/Acre); the cost to prepare annual monitoring reports; and water quality monitoring costs. To enroll as an Individual Discharger under the Irrigated Lands Regulatory Program, call the Central Valley Water Board phone line at (916) 464-4611 or e-mail board staff at IrrLands@waterboards. ca. gov.

#### Response 8

The Project does not include commercially irrigated agriculture; therefore, the Project does not require coverage under the Irrigated Lands Regulatory Program.

#### Comment 9

#### **Limited Threat General NPDES Permit**

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for Limited Threat Discharges to Surface Water (Limited Threat General Order). A complete Notice of Intent must be submitted to the Central Valley Water Board to obtain coverage under the Limited Threat General Order.

For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:

https://www.waterboards.ca.gov/centralvalley/board\_decisions/adopted\_orders/general\_orders/r5-2016-0076-01.pdf

#### Response 9

The Project does not involve construction dewatering and it is not necessary to discharge groundwater to waters of the United States; therefore, the Project does not require coverage under a National Pollutant Discharge Elimination System permit.

#### Comment 10

#### NPDES Permit

If the proposed project discharges waste that could affect the quality of surface waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit. For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at: https://www.waterboards.ca.gov/centralvalley/help/permit/

#### Response 10

The Project will not discharge wastes that could affect the quality of surface waters of the State, with the exception of construction stormwater as described above in Response 1; therefore, the Project does not require coverage under a National Pollutant Discharge Elimination System permit.

## 1.3 Revisions to the Proposed Mitigated Negative Declaration

Section 15074.1 of the State CEQA Guidelines provides a process for substituting mitigation measures in a proposed mitigated negative declaration:

- (a) As a result of the public review process for a proposed mitigated negative declaration, including any administrative decisions or public hearings conducted on the project prior to its approval, the lead agency may conclude that certain mitigation measures identified in the mitigated negative declaration are infeasible or otherwise undesirable. Prior to approving the project, the lead agency may, in accordance with this section, delete those mitigation measures and substitute for them other measures which the lead agency determines are equivalent or more effective.
- (b) Prior to deleting and substituting for a mitigation measure, the lead agency shall do both of the following:
  - (1) Hold a public hearing on the matter. Where a public hearing is to be held in order to consider the project, the public hearing required by this section may be combined with that hearing. Where no public hearing would otherwise be held to consider the project, then a public hearing shall be required before a mitigation measure may be deleted and a new measure adopted in its place.
  - (2) Adopt a written finding that the new measure is equivalent or more effective in mitigating or avoiding potential significant effects and that it in itself will not cause any potentially significant effect on the environment.
- (c) No recirculation of the proposed mitigated negative declaration pursuant to Section 15072 is required where the new mitigation measures are made conditions of, or are otherwise incorporated into, project approval in accordance with this section.
- (d) "Equivalent or more effective" means that the new measure will avoid or reduce the significant effect to at least the same degree as, or to a greater degree than, the original measure and will create no more adverse effect of its own than would have the original measure.

EID consulted with tribal representatives from the United Auburn Indian Community, the Wilton Rancheria, and the Shingle Springs Band of Miwok Indians in accordance with AB52 for Tribal Cultural Resources. No Tribal Cultural Resources were identified within the Project area. However, based on its continuing consultation with tribal representatives, EID has changed the text of Mitigation Measure CR-1 in the Mitigated Negative Declaration and Mitigation, Monitoring, and Reporting Program in accordance with Section 15074.1. The proposed changes are shown in underlined text below:

## Mitigation Measure CR-1: Address Previously Undiscovered Historic Properties and Archaeological Resources.

EID shall implement the following measure to reduce or avoid impacts on undiscovered historic properties and archaeological resources. If interested Native American Tribes provide information demonstrating the significance of the project location and tangible evidence supporting the determination the site is highly sensitive for prehistoric archaeological resources,

EID will retain a qualified archaeologist to 1) monitor for potential prehistoric archaeological resources during initial ground disturbing activities, 2) prepare a worker awareness brochure, 3) invite tribal representatives to review the worker awareness brochure, and 4) conduct training of personnel involved in project implementation. If buried or previously unidentified historic properties or archaeological resources are discovered during project activities, all work within a 100-foot radius of the find shall cease. EID shall retain a professional archaeologist meeting the Secretary of the Interior's Professional Standards for Archaeologists to assess the discovery and recommend what, if any, further treatment or investigation is necessary for the find. Interested Native American Tribes will also be contacted. Any necessary treatment/investigation shall be developed with interested Native American Tribes providing recommendations and shall be coordinated with the State Historic Preservation Officer and Reclamation, if necessary, and shall be completed before project activities continue in the vicinity of the find.

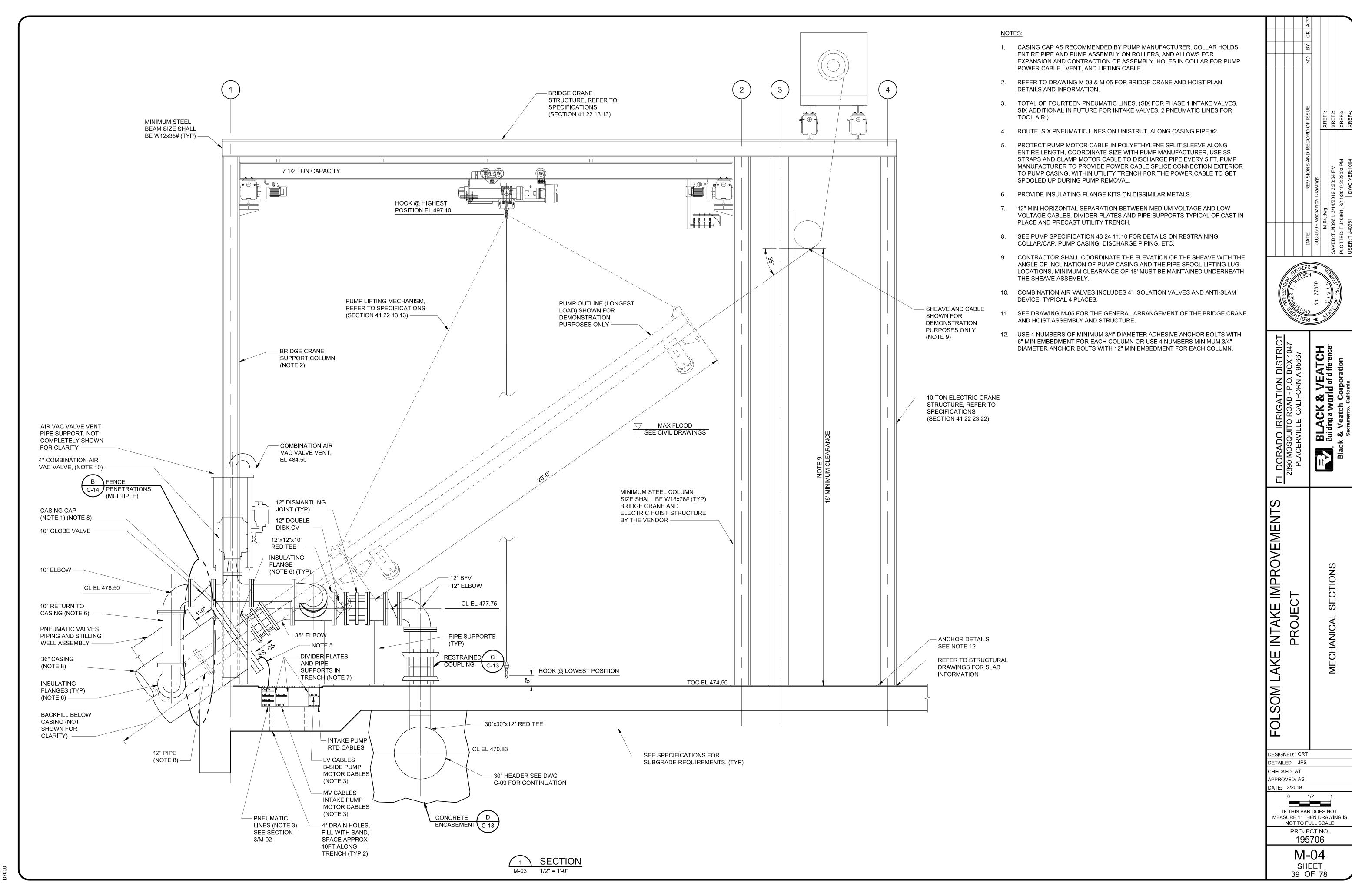
**Timing:** During construction.

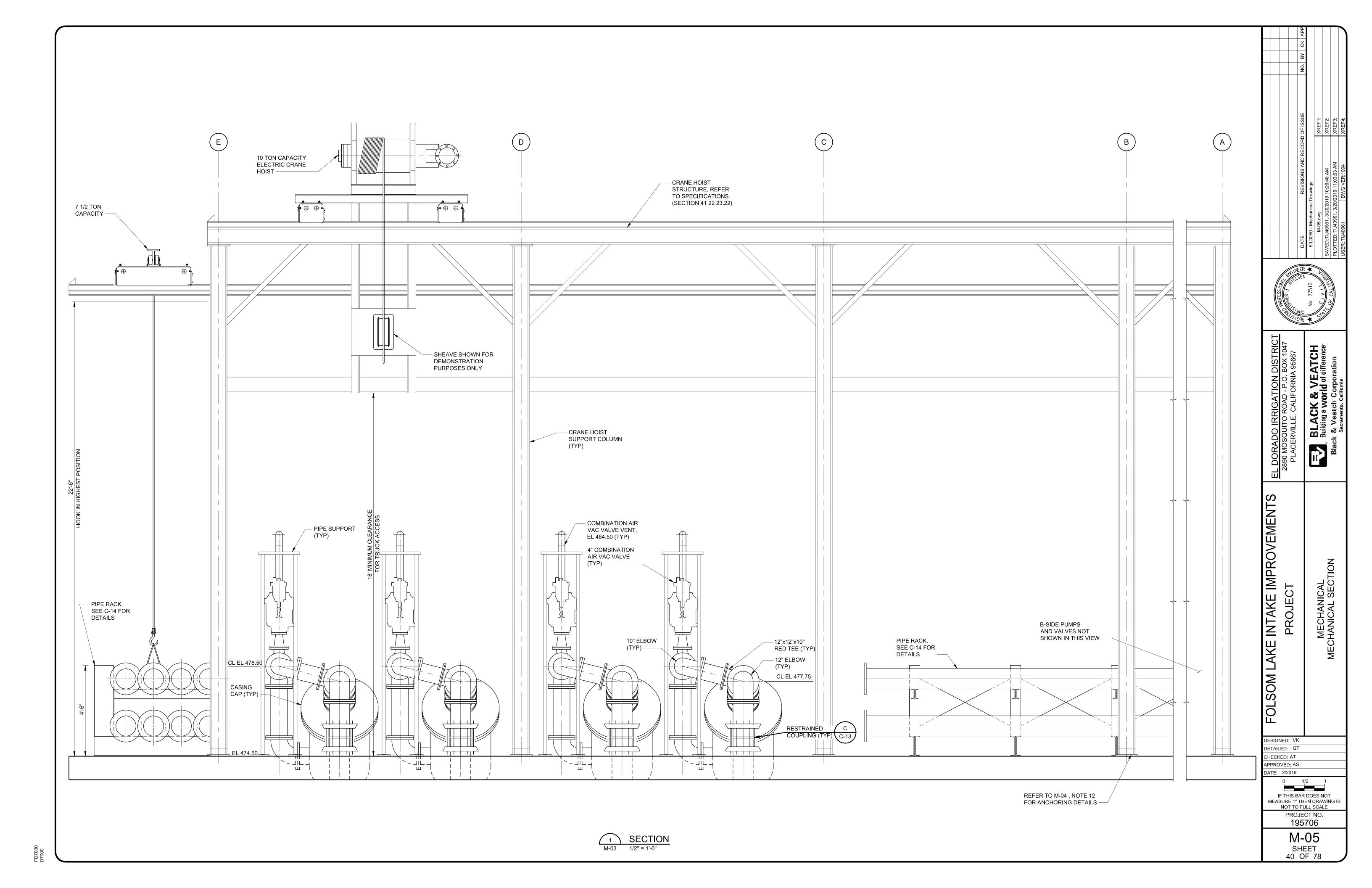
**Responsibility:** El Dorado Irrigation District.

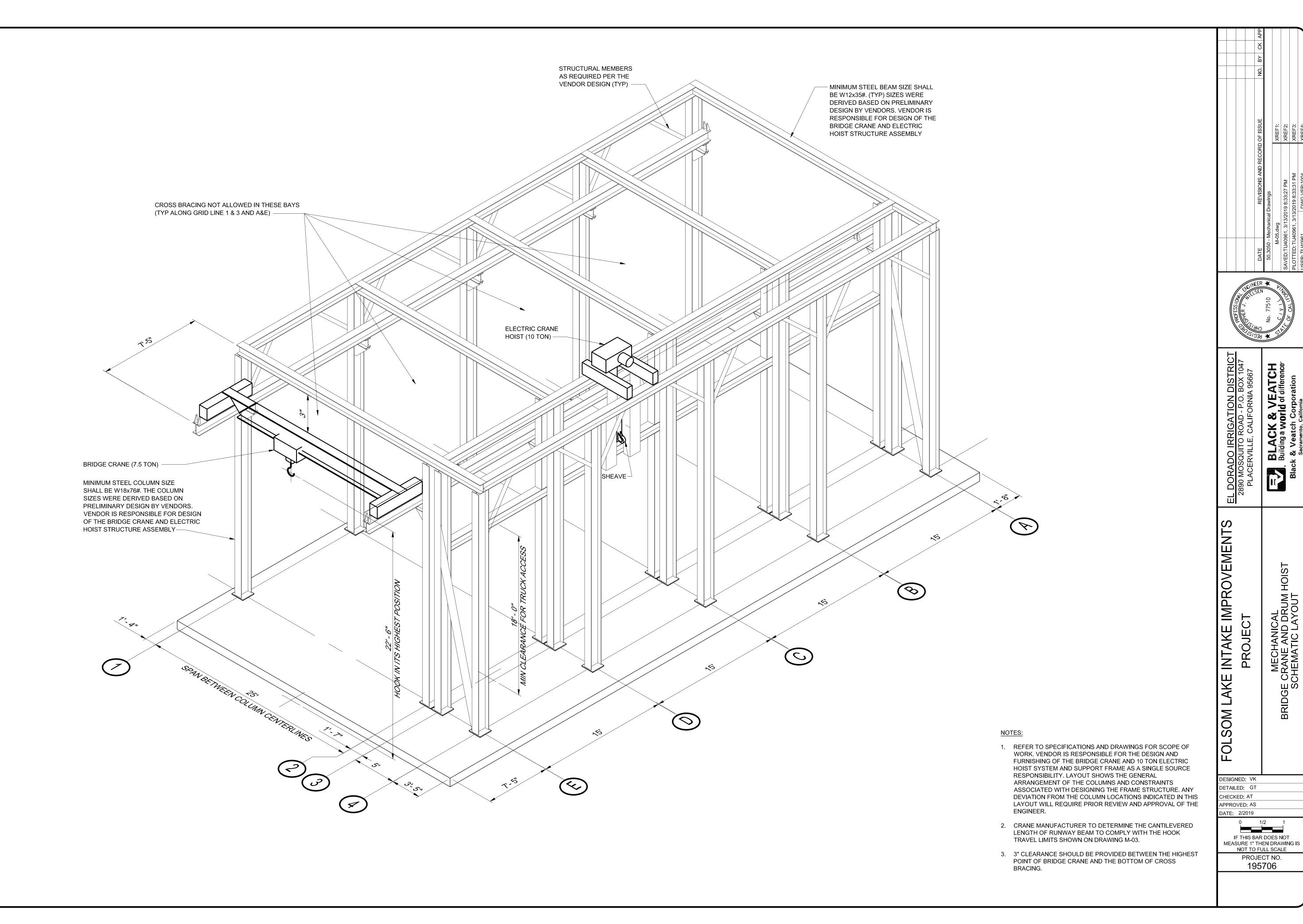
The proposed substitute text is equivalent or more effective than the measure proposed in the Initial Study and Proposed MND because all of the actions required by the original measure would still be required, but additional measures (preparing a worker awareness brochure, inviting tribal representatives to review the worker awareness brochure, and conducting training of personnel involved in project implementation) are required. These additional measures would not themselves have any significant physical effect on the environment, and no recirculation of the proposed MND is required because the new mitigation measure is incorporated into the project approval.

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## **Drawings**







FD7000

# Comment Letters Received on the Initial Study/Proposed Mitigated Negative Declaration

From: Deason, Brian
To: Deason, Brian

Subject: FW: Folsom Lake Intake Improvements Project - NOI and IS/MND - SCH#2019029018

**Date:** Friday, March 08, 2019 6:54:18 PM

From: "Micheaels, Jim@Parks" < Jim.Micheaels@parks.ca.gov>

**Date:** Thu Mar 07 17:49:09 EST 2019 **To:** "bdeason@eid.org" <bdeason@eid.org>

Cc: "Preston, Rich@Parks" < Rich.Preston@parks.ca.gov > , "Jonathan Friedman"

<jfriedman@usbr.gov>,"Hubbard, Bradley" <bhubbard@usbr.gov>
Subject: Folsom Lake Intake Improvements Project - NOI and IS/MND -

SCH#2019029018

Hi Brian -

Below are the comments of the Gold Fields District of CA State Parks regarding the Folsom Lake Intake Improvements Project:

1.) Use of boat ramps/launch facilities. Project description indicates project construction will require use of boat ramps to launch and stage barges for in0-water work. The marina at Browns Ravine is identified as one potential launch location, but other boat ramps at Folsom lake could be considered.

California State Parks operates and maintains the boat ramps and launch areas at Folsom Lake, including Browns Ravine. The Folsom Lake Marina at Browns Ravine is operated by a concessionaire through a contract with State Parks. EID needs to work directly with California State Parks for approval to use boat ramps or other launch facilities for the project. We need to insure there is minimal disruption to concessionaire or public use. Please contact Folsom Sector Superintendent Rich Preston (916) 988-0205 regarding use of Folsom Lake boat launch facilities. Rather than relying on the contractor to contact State Parks, we need to work out the timing, duration, hours of operation and use of the boat launch facilities directly with EID, ahead of your contractor.

2.) **In Water Work**. Project description indicates in-water work will occur from 2 barges between October and February. How will the in-water construction are be identified and delineated to keep recreation water use out of the construction area? Buoys, buoy line, signs, etc? State Parks would like to work with EID regarding the type of signage and buoys to insure recreating public is notified and limited from entering the construction area. Will navigation warning lights be included on the barges or other equipment staged on the Lake during construction? Will the facility

3.) **Bridge Crane.** The project includes construction of a bridge crane, 25' high by 25'wide by 65' long. The structure would be along the Folsom Lake shoreline. Does EID have photographs of similar structures or an artist's rendition of the proposed structure in this setting? (color, materials, finish, truss structure?) It is difficult to understand and determine the visual impact without seeing what the structure would look like. Darker or muted, earth tone (greens, browns, etc) colors with non-reflective finish would blend in better with the background.

Thank you. jm.

Jim Micheaels

CA State Parks, Gold Fields District

7806 Folsom-Auburn Road

Folsom, CA 95630

(916) 988-0513 - office

(916) 988-9062 - fax

<u>Jim.Micheaels@parks.ca.gov</u>





MAR 05





Message sent to:

Deason Mueller Wells

Money

#### Central Valley Regional Water Quality Control Board

27 February 2019

**CERTIFIED MAIL**7014 2120 0001 4292 3150

Brian Deason El Dorado Irrigation District 2890 Mosquito Road Placerville, CA 95667

COMMENTS TO REQUEST FOR REVIEW FOR THE MITIGATED NEGATIVE DECLARATION, FOLSOM LAKE INTAKE IMPROVEMENTS PROJECT, SCH#2019029018, EL DORADO COUNTY

Pursuant to the State Clearinghouse's 6 February 2019 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request for Review for the Mitigated Negative Declaration* for the Folsom Lake Intake Improvements Project, located in El Dorado County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

#### I. Regulatory Setting

#### **Basin Plan**

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State's water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38.

The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has adopted a Basin Plan amendment in noticed public hearings, it must be approved by the State Water Resources Control Board (State Water Board), Office of Administrative Law (OAL) and in some cases,

.KARL E. LONGLEY SCD, P.E., CHAIR | PATRICK PULUPA, ESQ., EXECUTIVE OFFICER



the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues.

For more information on the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins*, please visit our website: http://www.waterboards.ca.gov/centralvalley/water issues/basin plans/

#### **Antidegradation Considerations**

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Implementation Policy is available on page 74 at: https://www.waterboards.ca.gov/centralvalley/water\_issues/basin\_plans/sacsjr\_201805.pdf

#### In part it states:

Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.

This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

#### II. Permitting Requirements

#### **Construction Storm Water General Permit**

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit), Construction General Permit Order No. 2009-009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan

(SWPPP).

For more information on the Construction General Permit, visit the State Water Resources Control Board website at:

http://www.waterboards.ca.gov/water issues/programs/stormwater/constpermits.shtml

#### Phase I and II Municipal Separate Storm Sewer System (MS4) Permits<sup>1</sup>

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water\_issues/storm\_water/municipal\_permits/

For more information on the Phase II MS4 permit and who it applies to, visit the State Water Resources Control Board at:

http://www.waterboards.ca.gov/water\_issues/programs/stormwater/phase\_ii\_municipal.sht ml

#### **Industrial Storm Water General Permit**

Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 2014-0057-DWQ.

For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water\_issues/storm\_water/industrial\_general\_permits/index.shtml

#### **Clean Water Act Section 404 Permit**

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACE). If a Section 404 permit is required by the USACE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements.

<sup>&</sup>lt;sup>1</sup> Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.

If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACE at (916) 557-5250.

#### Clean Water Act Section 401 Permit - Water Quality Certification

If an USACE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications.

For more information on the Water Quality Certification, visit the Central Valley Water Board website at:

https://www.waterboards.ca.gov/centralvalley/water\_issues/water\_quality\_certification/

#### Waste Discharge Requirements – Discharges to Waters of the State

If USACE determines that only non-jurisdictional waters of the State (i.e., "non-federal" waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation.

For more information on the Waste Discharges to Surface Water NPDES Program and WDR processes, visit the Central Valley Water Board website at: https://www.waterboards.ca.gov/centralvalley/water issues/waste to surface water/

#### **Dewatering Permit**

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Risk General Order) 2003-0003 or the Central Valley Water Board's Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Risk Waiver) R5-2013-0145. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

For more information regarding the Low Risk General Order and the application process, visit the Central Valley Water Board website at: http://www.waterboards.ca.gov/board\_decisions/adopted\_orders/water\_quality/2003/wqo/w qo2003-0003.pdf

For more information regarding the Low Risk Waiver and the application process, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/board\_decisions/adopted\_orders/waivers/r5-2013-0145\_res.pdf

#### Regulatory Compliance for Commercially Irrigated Agriculture

If the property will be used for commercial irrigated agricultural, the discharger will be required to obtain regulatory coverage under the Irrigated Lands Regulatory Program. There are two options to comply:

- 1. **Obtain Coverage Under a Coalition Group.** Join the local Coalition Group that supports land owners with the implementation of the Irrigated Lands Regulatory Program. The Coalition Group conducts water quality monitoring and reporting to the Central Valley Water Board on behalf of its growers. The Coalition Groups charge an annual membership fee, which varies by Coalition Group. To find the Coalition Group in your area, visit the Central Valley Water Board's website at: https://www.waterboards.ca.gov/centralvalley/water\_issues/irrigated\_lands/regulator y\_information/for\_growers/coalition\_groups/ or contact water board staff at (916) 464-4611 or via email at IrrLands@waterboards.ca.gov.
- 2. Obtain Coverage Under the General Waste Discharge Requirements for Individual Growers, General Order R5-2013-0100. Dischargers not participating in a third-party group (Coalition) are regulated individually. Depending on the specific site conditions, growers may be required to monitor runoff from their property, install monitoring wells, and submit a notice of intent, farm plan, and other action plans regarding their actions to comply with their General Order. Yearly costs would include State administrative fees (for example, annual fees for farm sizes from 11-100 acres are currently \$1,277 + \$8.53/Acre); the cost to prepare annual monitoring reports; and water quality monitoring costs. To enroll as an Individual Discharger under the Irrigated Lands Regulatory Program, call the Central Valley Water Board phone line at (916) 464-4611 or e-mail board staff at IrrLands@waterboards.ca.gov.

#### **Limited Threat General NPDES Permit**

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Limited Threat Discharges to Surface Water* (Limited Threat General Order). A complete Notice of Intent must be submitted to the Central Valley Water Board to obtain coverage under the Limited Threat General Order.

For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at: https://www.waterboards.ca.gov/centralvalley/board\_decisions/adopted\_orders/general\_orders/r5-2016-0076-01.pdf

#### **NPDES Permit**

If the proposed project discharges waste that could affect the quality of surface waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit.

For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at:

https://www.waterboards.ca.gov/centralvalley/help/permit/

If you have questions regarding these comments, please contact me at (916) 464-4812 or Jordan.Hensley@waterboards.ca.gov.

Jordan Hensley

**Environmental Scientist** 

cc: State Clearinghouse unit, Governor's Office of Planning and Research, Sacramento

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### **Appendices**

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