
Comment 1: California Department of Fish & Wildlife (CDFW)

The California Department of Fish and Wildlife (CDFW) received and reviewed the Initial Study/Mitigated Negative Declaration from Reclamation District (RD) 1001 for the Reclamation District 1001 Auxiliary Drainage Pump Station Project (Project) pursuant the California Environmental Quality Act (CEQA) statute and guidelines.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish, wildlife, native plants, and their habitat.

CDFW ROLE

CDFW is California’s Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW is also submitting comments as a Responsible Agency (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381) because, as proposed, the Project will be subject to CDFW’s lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.), and because RD 1001 proposes to obtain a California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.) Consistency Determination for incidental take of giant garter snake.

PROJECT DESCRIPTION SUMMARY

RD 1001 proposes to construct a new auxiliary drainage pump station located along the Natomas Cross Canal North Levee at the south end of the RD 1001 Lateral 4 Channel, approximately one mile northeast of the existing RD 1001 Main Drainage Pump Plant within Sutter County, California. The Project includes regrading of the Lateral 4 Channel, raising and widening the Natomas Cross Canal North Levee, construction of the new pump station, construction of two 36-inch drainage discharge pipes crossing the levee, construction of a railcar bridge spanning the Lateral 4 Channel just upstream of the new pump station, and grading of two irrigation ditches to convey flows from existing ditches west and east of the Project site.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the County in adequately identifying and, where appropriate, mitigating all the Project’s significant, or potentially significant impacts on fish and wildlife (biological) resources.

Take Authorization for Giant Garter Snake

Giant garter snake (*Thamnophis gigas*) (GGS) is listed as Threatened under both the federal Endangered Species Act and CESA. The IS/MND identifies the project site as having a high likelihood of supporting GGS and proposes to obtain a federal incidental take statement through Section 7 consultation with the United States Fish and Wildlife Service (USFWS) and a CESA Consistency Determination (CD) from CDFW. In order for CDFW to issue a CD for take (see Fish & G. Code, § 86) of a state and federally-listed species, the applicant must have obtained either a federal incidental take statement or federal incidental take permit, and the conditions specified in the federal incidental take statement or incidental take permit must be consistent with CESA and meet the following criteria:

1. The authorized take is incidental to an otherwise lawful activity;

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2. The impacts of the authorized take are minimized and fully mitigated;
3. The measures required to minimize and fully mitigate the impacts of the authorized take:
 - a. Are roughly proportional in extent to the impact of the taking on the species,
 - b. Maintain the applicant's objectives to the greatest extent possible, and
 - c. May be successfully implemented by the applicant;
4. Adequate funding is provided to implement the required minimization and mitigation measures and to monitor compliance with and the effectiveness of the measures; and
5. Issuance of the permit will not jeopardize the continued existence of a CESA-listed species.

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If CDFW determines that the federal statement/permit is not consistent with CESA, the applicant may need to apply for an incidental take permit pursuant to section 2081 subdivision (b) of the Fish and Game Code in order to receive state authorization for the proposed take.

Please note that federal incidental take statements/permits are often not found to be consistent with CESA. The federal Endangered Species Act does not require full mitigation nor financial assurances to carry out mitigation, while CESA does. In addition, federal incidental take statements/permits do not always describe mitigation measures in enough detail to meet CESA standards. CDFW cannot add any conditions to a federal incidental take statement/permit to meet CESA's standards.

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CDFW strongly recommends that RD 1001 coordinate with both CDFW and USFWS as early as possible in the permitting process to ensure that the conditions in the federal incidental take statement meet the criteria necessary for CDFW to issue a CD.

Giant Garter Snake Impact Analysis and Mitigation Strategy

RD 1001 proposes to mitigate for the Project's impacts to GGS habitat by purchasing credits from a USFWS- and CDFW-approved conservation bank at a 3:1 ratio for permanent impacts to upland and aquatic habitat and a 1:1 ratio for permanent impacts to rice fields and temporary impacts to upland and aquatic habitat. The IS/MND does not clearly explain why the proposed mitigation for permanent impacts to rice habitat is lower than the proposed mitigation for permanent impacts to other upland and aquatic habitat; CDFW recommends that this analysis be added to the IS/MND. When analyzing this mitigation strategy please consider CESA's full mitigation standard and requirements that may require a stronger mitigation proposal.

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RD 1001 anticipates that the Project will permanently impact 0.27 acres of existing aquatic habitat, but that the construction of two new connection channels would create 0.24 acres of aquatic habitat, resulting in a net permanent impact of 0.03 acres. However, based on the IS/MND's Figure 4, the location of the new connection channels appears to overlap with existing upland and rice field habitat. It is not clear whether connection channels' impacts to existing upland and rice field habitat was included in the calculation of the Project's anticipated impacts on GGS habitat. CDFW recommends that the IS/MND include these impacts or describe if these impacts were included in the existing impact analysis.

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Nesting Bird Surveys and Protection

Sections 3503, 3503.5, and 3513 of the Fish and Game Code protect nesting and migratory birds and birds of prey. Section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by the Fish and Game Code or any regulation made pursuant thereto. Section 3503.5 states that it is unlawful to take, possess, or destroy any birds in the orders *Falconiformes* or *Strigiformes* (birds of prey) or to take, possess, or destroy the nest or eggs of

any such bird except as otherwise provided by the Fish and Game Code or any regulation adopted pursuant thereto. Section 3513 states that it is unlawful to take or possess any migratory nongame bird as designated in the federal Migratory Bird Treaty Act.

The IS/MND's mitigation measure BIO-22 requires a pre-construction nesting bird survey if vegetation removal or earthwork is scheduled during the nesting season (February 1 through August 31), that minimum 100-foot no-disturbance buffers be established around any active nests of migratory birds, and that minimum 300-foot no-disturbance buffers be established around nesting raptors. BIO-22 requires the pre-construction survey to be conducted within seven (7) days prior to vegetation removal. Please note that some bird species can construct nests and begin laying eggs in less than seven days, and that a pre-construction nesting bird survey scheduled seven days prior to construction may therefore miss some instances of nesting. To minimize the chances of missing nests, CDFW recommends scheduling the survey within three (3) days before the start of vegetation removal and/or ground disturbing activities. Please also note that Fish and Game Code section 3503 protects the nests and eggs of all birds, not just migratory birds and birds of prey. CDFW recommends that BIO-22 be amended to require no-disturbance buffers around any active bird nests. In addition, while 100 to 300-foot buffers are adequate to avoid impacts in many cases, nesting birds' tolerance of disturbance varies greatly depending on species, intensity of disturbance, whether the nesting pair is accustomed to disturbance, the location of the nest, the stage of development of nestlings, etc. Disturbance too close to the nest may impact the parents' ability to forage effectively and reduce nestlings' chances of survival. In some cases, disturbance can cause the parents to abandon the nest completely. Depending on the circumstances, a buffer wider than 300 feet may be necessary to avoid these impacts. CDFW recommends that BIO-22 be amended to state that wider buffers will be implemented if deemed necessary by the surveying biologist. CDFW is available to provide comments and feedback on nesting bird avoidance strategies if desired. However, it should be noted that CDFW cannot guarantee that any specific buffer width will be sufficient to completely avoid take in any given situation, and therefore CDFW cannot approve or disapprove specific buffer proposals.

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ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be submitted online or mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov.

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FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

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CONCLUSION

Pursuant to Public Resources Code § 21092 and § 21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the proposed project. Please direct written notifications to: California Department of Fish and Wildlife North Central Region, 1701 Nimbus Road, Rancho Cordova, CA 95670 or emailed to R2CEQA@wildlife.ca.gov.

1H

CDFW appreciates the opportunity to comment on the Is/MND to assist in identifying and mitigating Project impacts on biological resources. CDFW personnel are available for consultation regarding biological resources and strategies to minimize and/or mitigate impacts. If you have any questions regarding these comments, please contact me at (916) 358-2955 or gabriele.quillman@wildlife.ca.gov.

Thank you for your comments and for providing information as a responsible CEQA agency. The following written responses are intended to address your comments and, when appropriate, changes have been made to the Initial Study/Mitigation Negative Declaration.

Response to Comment 1A

USACE has designated the Federal Emergency Management Agency (FEMA) as the lead federal agency to act on behalf of the USACE for purposes of compliance with NEPA and Section 7 of the Endangered Species Act. FEMA will coordinate with the USFWS to initiate consultation pursuant to Section 7 to obtain a federal Biological Opinion including an incidental take statement for effects to giant garter snake. Concurrently, RD1001 will facilitate coordination between USFWS and CDFW in order to ensure the federal incidental take statement or permit will meet CDFW requirements under 2080.1 of the California Fish and Game Code and is consistent with CESA criteria in order to obtain a CESA Consistency Determination (CD). During coordination efforts, CDFW will be provided an opportunity to review the draft Biological Opinion and provide comments on the adequacy of the avoidance, minimization, and mitigation measures included as they relate to CESA. This coordination is intended to ensure that CDFW will be able to provide feedback such that the final Biological Opinion issued by USFWS will allow for a CESA consistency and the 2080.1 CESA CD that is proposed in the IS/MND. Updates to the IS/MND under Section 2.4 Biological Resources are included in response to this comment.

Response to Comment 1B

RD1001 will facilitate coordination between FEMA and CDFW during Section 7 Consultation to ensure that the Biological Opinion will meet CESA criteria in order for CDFW to provide a 2080.1 concurrence letter. During coordination efforts, CDFW will be provided an opportunity to review the draft Biological Opinion and provide comments on the adequacy of the avoidance, minimization, and mitigation measures included as they relate to CESA.

Response to Comment 1C

The compensatory mitigation has been updated to reflect the USACE/USFWS “Programmatic Formal Consultation for U.S. Army Corps of Engineers 404 Permitted Project with Relatively Small Effects on Giant Garter Snake with Butte, Colusa, Glenn, Fresno, Merced, Sacramento, San Joaquin, Solano, Stanislaus, Sutter and Yolo Counties, California” (Consultation Code 1-1-F-97-149). The updates state that the project will restore temporarily effected land and use a 3:1 ratio for permanently effected land. Changes can be found under section 2.4 Biological Resources. The compensatory mitigation was determined using the USACE/USFWS guidelines in the document stated above, however, USACE has

designated FEMA as the lead federal agency to act on behalf of the USACE for purposes of compliance with NEPA, Section 7 of the Endangered Species Act.

Response to Comment 1D

The Project does anticipate approximately 0.27 acres of permanent effects to existing aquatic habitat, and that the construction of two new connection channels would create 0.24 acres of aquatic habitat, resulting in a net permanent impact of 0.03 acres. The permanent effects to disturbed upland habitats and rice fields due to the new connection channels was not included in the calculation of the Project's anticipated impacts on GGS habitat. These impacts have been updated accordingly for upland and rice field permanent impacts and have been revised in Figure 4 and in the IS/MND under section 2.4 Biological Resources. As a result of these changes, the Permanent Impacts associated with the project were calculated at a 3:1 ratio and increased from 0.47 acres to 0.70 acres.

Response to Comment 1E

In order to ensure that potential impacts to migratory nesting birds are minimized to the greatest extent feasible, Measure BIO-22 was updated to include a survey within 3 days prior to vegetation removal and a minimum 100-foot no-disturbance buffer will be established around any active bird nests. "The surveying biologist may increase the 100-foot no-disturbance buffer around an active bird nest if deemed necessary," was also added to the measure.

Response to Comment 1F

Special-status species were not observed during biological surveys and, therefore, no new reporting to CNNDDB was necessary. CNNDDB was referenced in order to obtain information on nearby occurrences.

Response to Comment 1G

Filing fees will be paid upon filing of the Notice of Determination as required by CDFW and CEQA guidelines.

Response to Comment 1H

The lead agency has and will meet requirements pursuant to Public Resources Code § 21092 and § 21092.2.

Comment 2: California Department of Conservation Geologic Energy Management Division

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California
Department of Conservation
Geologic Energy Management Division

Gov. Gavin Newsom, Governor
David Shabazian, Director
801 K Street, MS 18-05
Sacramento, CA 95814
T: (916) 445-9686

10/1/2020

County: Sutter - Reclamation District 1001
Thomas Engler
1959 Cornelius Ave., Rio Oso, CA 95674, USA
Engler@mbkengineers.com

Construction Site Well Review (CSWR) ID: 1012131

Assessor Parcel Number(s): 34140007

Property Owner(s): Kim Reese

Project Location Address: 1959 Cornelius Ave., Rio Oso, California, 95674

Project Title: SCH Number 2020099009, Reclamation District 1001, Auxiliary Drainage Pump Station Project

Public Resources Code (PRC) § 3208.1 establishes well reabandonment responsibility when a previously plugged and abandoned well will be impacted by planned property development or construction activities. Local permitting agencies, property owners, and/or developers should be aware of, and fully understand, that significant and potentially dangerous issues may be associated with development near oil, gas, and geothermal wells.

The California Geologic Energy Management Division (CalGEM) has received and reviewed the above referenced project dated 9/23/2020. To assist local permitting agencies, property owners, and developers in making wise land use decisions regarding potential development near oil, gas, or geothermal wells, the CalGEM provides the following well evaluation.

The project is located in Sutter County, within the boundaries of the following fields:

According to CalGEM records, there are no oil and gas wells located within the Reclamation District 1001 Auxiliary Drainage Pump Station Proposed Project Area.

However, there is one plugged and abandoned well located on the same parcel, (APN 34140007). This well is referred to as the "Nicholas 2", API 0410120044. The well is plugged and abandoned and located approximately 1,000 feet away from the Southwest corner of the proposed project area.

It should also be noted that there is another plugged and abandoned well located on a neighboring parcel. This well is located within 1,300 feet of the Northwest corner of the proposed project area. This well is referred to as the "American unit 1 number 1", API 0410100226.

Our records indicate there are 0 known oil or gas wells located within the project boundary as identified in the application.

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- Number of wells Not Abandoned to Current CalGEM Requirements as Prescribed by Law and



Projected to Be Built Over or Have Future Access Impeded by this project: 0

- Number of wells Not Abandoned to Current CalGEM Requirements as Prescribed by Law and Not Projected to Be Built Over or Have Future Access Impeded by this project: 0
- Number of wells Abandoned to Current Division Requirements as Prescribed by Law and Projected to Be Built Over or Have Future Access Impeded by this project: 0
- Number of wells Abandoned to Current Division Requirements as Prescribed by Law and Not Projected to Be Built Over or Have Future Access Impeded by this project: 0

} 2B

The CalGEM categorically advises against building over, or in any way impeding access to, oil, gas, or geothermal wells. Impeding access to a well could result in the need to remove any structure or obstacle that prevents or impedes access including, but not limited to, buildings, housing, fencing, landscaping, trees, pools, patios, sidewalks, roadways, and decking. Maintaining sufficient access is considered the ability for a well servicing unit and associated necessary equipment to reach a well from a public street or access way, solely over the parcel on which the well is located. A well servicing unit, and any necessary equipment, should be able to pass unimpeded along and over the route, and should be able to access the well without disturbing the integrity of surrounding infrastructure.

There are no guarantees a well abandoned in compliance with current CalGEM requirements as prescribed by law will not start leaking in the future. It always remains a possibility that any well may start to leak oil, gas, and/or water after abandonment, no matter how thoroughly the well was plugged and abandoned. The CalGEM acknowledges wells plugged and abandoned to the most current CalGEM requirements as prescribed by law have a lower probability of leaking in the future, however there are no guarantees that such abandonments will not leak.

The CalGEM advises that all wells identified on the development parcel prior to, or during, development activities be tested for liquid and gas leakage. Surveyed locations should be provided to the CalGEM in Latitude and Longitude, NAD 83 decimal format. The CalGEM expects any wells found leaking to be reported to it immediately.

Failure to plug and reabandon the well may result in enforcement action, including an order to perform reabandonment well work, pursuant to PRC § 3208.1, and 3224.

PRC § 3208.1 give the CalGEM the authority to order or permit the re-abandonment of any well where it has reason to question the integrity of the previous abandonment, or if the well is not accessible or visible. Responsibility for re-abandonment costs may be affected by the choices made by the local permitting agency, property owner, and/or developer in considering the general advice set forth in this letter. The PRC continues to define the person or entity responsible for reabandonment as:

1. The property owner - If the well was plugged and abandoned in conformance with CalGEM requirements at the time of abandonment, and in its current condition does not pose an



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immediate danger to life, health, and property, but requires additional work solely because the owner of the property on which the well is located proposes construction on the property that would prevent or impede access to the well for purposes of remedying a currently perceived future problem, then the owner of the property on which the well is located shall obtain all rights necessary to reabandon the well and be responsible for the reabandonment.

2. The person or entity causing construction over or near the well - If the well was plugged and abandoned in conformance with CalGEM requirements at the time of plugging and abandonment, and the property owner, developer, or local agency permitting the construction failed either to obtain an opinion from the supervisor or district deputy as to whether the previously abandoned well is required to be reabandoned, or to follow the advice of the supervisor or district deputy not to undertake the construction, then the person or entity causing the construction over or near the well shall obtain all rights necessary to reabandon the well and be responsible for the reabandonment.
3. The party or parties responsible for disturbing the integrity of the abandonment - If the well was plugged and abandoned in conformance with CalGEM requirements at the time of plugging and abandonment, and after that time someone other than the operator or an affiliate of the operator disturbed the integrity of the abandonment in the course of developing the property, then the party or parties responsible for disturbing the integrity of the abandonment shall be responsible for the reabandonment.

No well work may be performed on any oil, gas, or geothermal well without written approval from the CalGEM. Well work requiring approval includes, but is not limited to, mitigating leaking gas or other fluids from abandoned wells, modifications to well casings, and/or any other re-abandonment work. The CalGEM also regulates the top of a plugged and abandoned well's minimum and maximum depth below final grade. CCR §1723.5 states well casings shall be cut off at least 5 feet but no more than 10 feet below grade. If any well needs to be lowered or raised (i.e. casing cut down or casing riser added) to meet this regulation, a permit from the CalGEM is required before work can start.

The CalGEM makes the following additional recommendations to the local permitting agency, property owner, and developer:

1. To ensure that present and future property owners are aware of (a) the existence of all wells located on the property, and (b) potentially significant issues associated with any improvements near oil or gas wells, the CalGEM recommends that information regarding the above identified well(s), and any other pertinent information obtained after the issuance of this letter, be communicated to the appropriate county recorder for inclusion in the title information of the subject real property.



California Department of Conservation Geologic Energy Management Division

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- 2. The Division recommends that any soil containing hydrocarbons be disposed of in accordance with local, state, and federal laws. Please notify the appropriate authorities if soil containing significant amounts of hydrocarbons is discovered during development.

As indicated in PRC § 3106, the CalGEM has statutory authority over the drilling, operation, maintenance, and abandonment of oil, gas, and geothermal wells, and attendant facilities, to prevent, as far as possible, damage to life, health, property, and natural resources; damage to underground oil, gas, and geothermal deposits; and damage to underground and surface waters suitable for irrigation or domestic purposes. In addition to the Division's authority to order work on wells pursuant to PRC §§ 3208.1 and 3224, it has authority to issue civil and criminal penalties under PRC §§ 3236, 3236.5, and 3359 for violations within the Division's jurisdictional authority. The CalGEM does not regulate grading, excavations, or other land use issues.

If during development activities, any wells are encountered that were not part of this review, the property owner is expected to immediately notify the Division's construction site well review engineer in the Northern district office, and file for CalGEM review an amended site plan with well casing diagrams. The District office will send a follow-up well evaluation letter to the property owner and local permitting agency.

} 2C

Should you have any questions, please contact me at (916) 324-7120 or via email at Charlene.Wardlow@conservation.ca.gov

Sincerely, Charlene L Wardlow Charlene Wardlow Northern District Deputy

Thank you for your comments and for providing information, which has been incorporated into the Initial Study/Mitigation Negative Declaration as appropriate.

Response to Comment 2A

The plugged and abandoned wells have been notated within the IS/MND under section 2.9 Hazards and Hazardous Materials. Thank you for this information.

Response to Comment 2B

Thank you for confirming that there are no known oil or gas wells within the project boundary. The identified plugged and abandoned wells will be reported to Sutter County.

Response to Comment 2C

CalGEM will be immediately notified should any unidentified wells be encountered during project construction. A statement pertaining to best management practices is also reflected under the avoidance, minimization, and/or mitigation measures under section 2.9 Hazards and Hazardous Materials.

Comment 3: Central Valley Flood Protection Board

STATE OF CALIFORNIA – CALIFORNIA NATURAL RESOURCES AGENCY

GAVIN NEWSOM, GOVERNOR

CENTRAL VALLEY FLOOD PROTECTION BOARD

3310 El Camino Ave., Ste. 170
SACRAMENTO, CA 95821
(916) 574-0809 FAX: (916) 574-0882



October 8, 2020

Reclamation District 1001
c/o Thomas Engler, P.E.
1959 Cornelius Avenue
Rio Oso, CA 95674

Subject: Comments on the Draft Initial Study with Proposed Mitigated Negative Declaration for the Reclamation District 1001 Auxiliary Drainage Pump Station Project (SCH No. 2020099009)

Dear Mr. Engler,

Thank you for the opportunity to comment on the Draft Initial Study/Mitigated Negative Declaration (IS/MND) for the Reclamation District 1001 Auxiliary Drainage Pump Station Project (proposed project). The proposed project, located in Sutter County, involves construction of a new auxiliary drainage pump station along the Natomas Cross Canal to provide backup water conveyance during flood conditions when the existing pump station is inoperable due to power outages. The project consists of the following improvements:

- Regrading of the Lateral 4 Channel from the south end of the existing culvert to the landside toe of the Natomas Cross Canal North Levee.
- Raising and widening of the Natomas Cross Canal North Levee to accommodate the new pump station discharge pipes and associated appurtenances (i.e. propane tanks), and to maintain levee crown access.
- Construction of two landside ramps and one waterside ramp to provide access to the proposed pump station and a proposed outfall structure from the levee crown.
- Construction of the pump station¹ at the south end of the Lateral 4 Channel at the landside toe of the Natomas Cross Canal North Levee, including a walkway to provide maintenance access.
- Placement of propane tanks on the levee crown with fuel lines running from the propane tanks to the power units.
- Construction of two 36-inch drainage discharge pipes that commence at the proposed pump station, cross the Natomas Cross Canal North Levee within the levee

¹ The pump station would consist of a steel frame structure with a concrete mattress foundation, two vertical turbine pumps, two propane power units, and associated appurtenances.

embankment, and end at a proposed concrete outfall structure at the waterside toe of the levee.

- Construction of a railcar bridge with a trash rack at the upstream end that would span the Lateral 4 Channel at a location just upstream of the proposed pump station.
- Grading of two irrigation ditches (west and east) to convey flows to the Lateral 4 Channel at a location upstream of the proposed railcar bridge. The proposed ditch alignments include 12-foot access roads. The remainder of the existing ditch located in between the proposed irrigation ditches and the pump station would be filled.

1.0 Responsibility of the Central Valley Flood Protection Board

The Central Valley Flood Protection Board (Board) is the State’s regulatory agency responsible for ensuring appropriate standards are met for the construction, maintenance, and operation of the flood control system that protects life, property, and habitat in California’s Central Valley. The Board serves as the State coordinator between the local flood management agencies, and the federal government, with the goal of providing the highest level of flood protection possible to California’s Central Valley.

As required by California Code of Regulations, Title 23, Division 1 (Title 23), Section 6, approval by the Board is required for all proposed work or uses, including the alteration of levees within any area for which there is an Adopted Plan of Flood Control within the Board’s jurisdiction. In addition, Board approval is required for all proposed encroachments within a floodway, on adjacent levees, and within any Regulated Stream identified in Title 23, Table 8.1. Specifically, Board jurisdiction includes the levee section, the waterward area between project levees, a minimum 10-foot-wide strip adjacent to the landward levee toe, the area within 30 feet from the top of bank(s) of Regulated Streams, and inside Board’s Designated Floodways. Activities outside of these limits which could adversely affect Federal-State flood control facilities, as determined by Board staff, are also under the Board’s jurisdiction. Permits may also be required for existing unpermitted encroachments or where it is necessary to establish the conditions normally imposed by permitting, including where responsibility for the encroachment has not been clearly established or ownership or uses have been changed. The Board received your encroachment permit application (T2020072) on July 1, 2020. Board staff is reviewing your application and the environmental documents and will contact you if additional information is needed.

Federal permits, including U.S. Army Corps of Engineers (USACE) Section 404 and Section 10 regulatory permits and Section 408 Permission, in conjunction with a Board permit, may be required for the proposed project. In addition to federal permits, State and local agency permits, certification, or approvals may also be required. State approvals may include, but are not limited to, California Department of Fish and Wildlife’s Lake and Streamed Alteration Agreement and Regional Water Quality Control Board’s Section 401 Water Quality Certification. The project proponent must obtain all authorizations that the proposed project may require.

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2.0 Comments on the IS/MND

Pursuant to Section 15 of Title 23, the Board may deny an encroachment permit if the proposed project could:

- Jeopardize directly or indirectly the physical integrity of levees or other works;
- Obstruct, divert, redirect, or raise the surface level of design floods or flows, or the lesser flows for which protection is provided;
- Cause significant adverse changes in water velocity or flow regimen;
- Impair the inspection of floodways or project works;
- Interfere with the maintenance of floodways or project works;
- Interfere with the ability to engage in flood fighting, patrolling, or other flood emergency activities;
- Increase the damaging effects of flood flows;
- Be injurious to, or interfere with, the successful execution, functioning, or operation of any adopted plan of flood control; or
- Adversely affect the State Plan of Flood Control, as defined in the California Water Code.

As a responsible agency under the California Environmental Quality Act (CEQA), the Board requires adequate information to evaluate the flood impacts of the project. We appreciate the IS/MND discussion summarizing the results of the Hydraulic Analysis Report prepared for the proposed project. Board staff will review the report, along with other documents submitted in support of your application to determine if the proposed project could result in any potential impacts listed above. This includes direct impacts to facilities under construction, as well as indirect impacts from the project to surrounding facilities.

The Biological Resources section of the IS/MND notes that large diameter trees may be removed during project construction. California Code of Regulations, Title 23, Section 131 provides the regulatory requirements for maintenance, planting, and removal of vegetation. Specifically, Section 131(l) of the California Code of Regulations states that "trees removed from the levee and from within ten feet of the levee shall have all roots larger than 1 ½ inches in diameter removed for a distance of at least 3 feet from the tree trunk at ground level and the hole filled with impervious soil compacted in 4-6 inch lifts." In addition, it is recommended that you refer to California Code of Regulations, Title 23, Section 131 when completing restoration work. If onsite restoration is required, please contact Board staff to ensure that any planting plans and vegetation maintenance schedules that have been developed are included in your encroachment permit application documents.

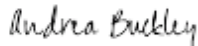
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Under Impact (b) of the Geology and Soils section it is noted that rock slope protection will be placed around the pump station as a method to reduce erosion. It is recommended that you refer to California Code of Regulations, Title 23, Section 121 to ensure the methods meets the Board's standards.

1C

Board staff is available to discuss any questions you have regarding the above comments. Please contact Jennifer Calles via email at Jennifer.Calles@CVFlood.ca.gov if you have any questions.

Sincerely,



Andrea Buckley
Environmental Services and Land Management Branch Chief

cc: Thomas Engler, P.E.
Reclamation District 1001
Engler@mbkeengineers.com

Office of Planning and Research
state.clearinghouse@opr.ca.gov

Debabrata Biswas
Permitting Engineer
Central Valley Flood Protection Board
Debabrata.Biswas@cvflood.ca.gov

Thank you for your comments and for providing information pertaining to the Initial Study/Mitigation Negative Declaration.

Response to Comment 1A

As outlined in Table 1 of the IS/MND, RD1001 anticipates that this project will require permit approvals from the Army Corps of Engineers (404 and 408), the Regional Water Quality Control Board (401 Water Quality Certification), the California Department of Fish and Wildlife (1602 Streambed Alteration Agreement and 2080.1 Concurrence), and the Central Valley Flood Protection Board (encroachment permit). The encroachment permit application was submitted to the CVFPB in June of 2020 and review is currently ongoing. All permit authorizations will be obtained prior to starting construction on this project.

Response to Comment 1B

Although some trees may require removal between the levees of the Natomas Cross Canal, no restoration or tree replanting efforts are planned on or between the levees. If permits require mitigation for these tree removals, RD1001 plans to use an off-site location or a mitigation bank for any tree replanting that would be needed for this project. No tree replanting related impacts/encroachment to the floodplain are expected to occur.

Response to Comment 1C

Rock Slope protection used on or between the Natomas Cross Canal levees will be designed to accommodate the requirements of California Code of Regulations, Title 23, Section 121.