

Response to Comment – Amador County Ingress, Egress and Education Plan – SCH #2022090184 – November 1, 2022

Response to Comment

Amador County Ingress, Egress and Education Plan
Amador, California
State Clearinghouse Number # 2022090184

Prepared by:

The California Department of Forestry and Fire Protection
P.O Box 944246 Sacramento, CA 94244-2460

November 1, 2022

The California Department of Forestry and Fire Protection (CAL FIRE) is serving as Lead Agency for California Environmental Quality Act (CEQA) compliance for the above-listed proposed project. An Initial Study/Mitigated Negative Declaration (IS/MND) was prepared, filed at the State Clearinghouse on September 12, 2022, and distributed or made available for a 30-day public and agency review period in conformance with CEQA Guidelines 14 CCR §15101(b) and §15072(b). The 30-day agency and public review period began on September 12, 2022 and end on October 13, 2022. A total of 2 comment letters containing 3 written comments were submitted to the Department, all of which were from public agencies. All of these 3 comments were given full consideration by the Department. The acronym of the agency (for public agency comments) are used to identify each individual comment on the list of comments, and the Department's response to them, which follows.

The 2 written comments from public agencies came from:

- (CVRWQCB) Peter Minkel, Engineering Geologist, Central Valley Regional Water Quality Control Board, 11020 Sun Center Drive, Suite 200, Rancho Cordova, CA 95670.
- (Caltrans) Gregoria Ponce, Chief, Office of Rural Planning, California Department of Transportation – Office of the District 10 Planning, P.O. Box 2048, Stockton, CA 95201.

The no comments from members of the general public came in.

This document contains CAL FIRE's responses to all substantive comments received during the public review period. A complete copy of each comment letter submitted to the Department is also included. A copy of this document will be sent to each individual comment submitter, is included as part of the Final CEQA Document, and has become part of the CEQA Administrative Record supporting this project.

Comments from Public Agencies (2)

Comment #1 (CVRWQCB):

Pursuant to the State Clearinghouse's 12 September 2022 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 Amador County Ingress, Egress and Education Plan, located in Countywide.

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, 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 and Land Disturbance Activities (Construction General Permit), Construction General Permit Order No. 2009-0009-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

Response to Comment – Amador County Ingress, Egress and Education Plan – SCH #2022090184 – November 1, 2022

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

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. 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/

Projects involving excavation or fill activities impacting less than 0.2 acre or 400 linear feet of non-jurisdictional waters of the state and projects involving dredging activities impacting less than 50 cubic yards of non-jurisdictional waters of the state may be eligible for coverage under the State Water Resources Control Board Water Quality Order No. 2004-0004-DWQ (General Order 2004-0004). For more information on the General Order 2004-0004, visit the State Water Resources Control Board website at:

https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2004/wqo/wqo2004-0004.pdf

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 Threat General Order) 2003-0003 or the Central Valley Water Board’s Waiver of Report of Waste Discharge and

Response to Comment – Amador County Ingress, Egress and Education Plan – SCH #2022090184 – November 1, 2022

Waste Discharge Requirements (Low Threat Waiver) R5-2018-0085. 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 Threat 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 Threat Waiver and the application process, visit the Central Valley Water Board website at:

https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2018-0085.pdf

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/>

Response to Comment #1: CVRWQCB outlined the Regulatory Setting for protecting water quality. This project complies with all regulatory requirements established by the CVRWQCB. During the preparation of this IS-MND, the CVRWQCB was contacted as required by PRC 4123 on February 14, 2022. The proposed project activities were listed, and the CVRWQCB was requested to review the project and provide input. On February 14, 2022, the Amador Fire Safe Council received a response from the CVRWQCB, indicating that the project falls into Category 1 of the General Order and that there was nothing further to do at this point. The PRC 4123 comments from CVRWQCB were included as attachments to the IS-MND.

CVRWQCB further listed requirements for obtaining Construction Storm Water General Permits when there are ground-disturbing activities cover more than one acre. As outlined in the IS-MND, there will be no ground-disturbing activities with this project. No Construction Storm Water General Permit will be required for this project. The CVRWQCB further outlined Clean Water Act 404 permitting requirements when dredged or fill material is discharged into navigable waters or wetlands. There will be no discharge of these materials into any

Response to Comment – Amador County Ingress, Egress and Education Plan – SCH #2022090184 – November 1, 2022

navigable waters or wetlands, so no Clean Water Act 404 permits will be required. CVRWQCB further listed permitting requirements for Water Quality Certifications under US Army Corps of Engineers or other federal permits when waters of the United States are disturbed. No disturbance of federal waters will occur as part of this project, so no Water Quality Certifications will be required. Additionally, there will be no construction or ground-watering dewatering, so no Notice of Intent filing will be required to the CVRWQCB. And finally, no waste discharges will occur as part of this project, so no National Pollutant Discharge Elimination System (NPDES) permit will be required.

Comment #2 (Caltrans):

Caltrans appreciates the opportunity to review and respond to Amador County's County-wide Ingress, Egress, and Education Plan Initial Study. The project aims to provide for safe ingress and egress of vehicles and equipment in the event of large wildlife.

This project involves the clearance of roadside vegetation (fuels) on private roads within unincorporated regions in Amador County. All roadside vegetation up to 10 inches in diameter at breast height (dbh) shall be removed within 20 feet of the road edge on either side. This distance may be reduced in locations where fences exist within this 20-foot zone. A combination shall make the fuel reduction of Pine Grove Camp crews and private contractors. The work to be done with private contractors may include the hand cutting and chipping of vegetation or the mastication of vegetation on-site utilizing a mechanical masticator. This mastication will be "reach-in" mastication only.

Caltrans at this time has the following comments:

Environmental

If any construction-related activities encroach into Caltrans Right of Way (ROW), the project proponent must apply for an Encroachment Permit to the Caltrans Encroachment Permit Office. All California Environmental Quality Act (CEQA) documentation, with supporting technical studies, must be submitted with the Encroachment Permit Application. These studies will analyze potential impacts on cultural sites, biological resources, hazardous waste locations, scenic highways, and/or other environmental resources within Caltrans ROW at the project site(s). Evidence of consultation with local Native American tribes and interested parties will need to be presented within the technical documents to approve encroachment in the Caltrans ROW. Mature trees within and/or near Caltrans ROW could provide suitable nesting habitats. If work occurs between February 1 and September 30 of any year, a pre-construction bird survey must be conducted by a qualified biologist before any construction-related activities in Caltrans ROW. A protective buffer must be established around the nest if an active nest is observed per California Department of Fish and Wildlife (CDFW) guidelines. No work is allowed within the protective buffer limits until the young have fledged and until authorized by the Caltrans District 10 Environmental Office.

Caltrans suggest Amador County Planning Department continue to coordinate and consult with Caltrans to identify and address potential cumulative transportation impacts that may occur from this project and other developments near this location. This will assist Caltrans in ensuring that traffic safety and quality standards are maintained for the traveling public on existing and future state transportation facilities.

If any future project activities encroach into Caltrans ROW, the project proponent must submit an application for an Encroachment Permit to the Caltrans District 10 Encroachment Permit Office. Appropriate environmental studies must be submitted with this application. These studies will include an

Response to Comment – Amador County Ingress, Egress and Education Plan – SCH #2022090184 – November 1, 2022

analysis of potential impacts to any cultural sites, biological resources, hazardous waste locations, and/or other resources within Caltrans ROW at the project site(s). For more information, please visit the Caltrans Website at: <https://dot.ca.gov/programs/traffic-operations/ep/applications>

Response to Comment #2: As Caltrans has noted in their comment letter, this project will be conducted entirely upon private road right-of-ways. No construction-related activities will be conducted within any Caltrans Right-of-Way, therefore no Caltrans Encroachment Permit will be required. Caltrans suggested that potential cumulative impacts from this project should be addressed by coordination with the Amador County Planning Department. This coordination is on-going. No potential cumulative impacts from this project are anticipated.