

Notice of Exemption

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

Contra Costa County Clerk
555 Escobar Street
Martinez, CA 94553

San Joaquin County Recorder-County Clerk
44 N. San Joaquin Street, Suite 260
Stockton, CA 95202

From: Contra Costa Water District
P.O. Box H2O
Concord, CA 94524
925-688-8168
Lead Agency/Applicant and
Filing Agency

Project Title: Emergency Temporary Diversion of East Contra Costa Irrigation District (ECCID) Water at Contra Costa Water District (CCWD) Middle River Intake

Project Applicant: Contra Costa Water District

Project Location - Specific: Water diverted from Middle River Intake at Victoria Canal, delivered to CCWD and City of Brentwood service areas

Project Location - City: Various

Project Location - County: Contra Costa and San Joaquin Counties

Description of Nature, Purpose and Beneficiaries of Project:

CCWD diverts water under ECCID’s pre-1914 water right for use in CCWD and the City of Brentwood’s service areas. Under the 2000 Amendment to the 1991 Agreement among the Department of Water Resources (DWR) and ECCID and CCWD, CCWD can divert the ECCID water from CCWD’s Rock Slough or Old River Intakes. DWR permission is needed for CCWD to divert ECCID water from CCWD’s Middle River Intake. Figure 1 is a map of the project area.

In both 2021 and 2022, due to the higher temperatures and reduced flow circulation associated with extraordinary drought conditions and water management actions in response to the drought conditions, there have been higher than normal amounts of algae throughout the Delta. Currently, algal blooms are producing high levels of taste and odor compounds at the Rock Slough and Old River Intakes, but water quality at Middle River is more acceptable. While CCWD has invested in several treatment system improvements in recent years to eliminate some common taste and odor compounds, others can only be effectively addressed by a shift in water source. CCWD is requesting temporary DWR approval to divert ECCID water at Middle River Intake until water quality improves at Old River or Rock Slough Intake.

The proposed project would allow CCWD to deliver improved water quality to CCWD and City of Brentwood customers while also better managing scarce water supplies during this drought without

increasing the amount of water diverted. CCWD's total diversions of ECCID water are projected to be approximately 3000 acre-feet per month during the summer and fall.

No increase in diversion amount will occur; the same amount of water would be diverted from Middle River Intake as otherwise would have been diverted from Old River and/or Rock Slough Intakes. Middle River Intake is less than 4 river miles away from Old River Intake, and both are located in the southern Sacramento-San Joaquin Delta. All of CCWD's intakes are equipped with state-of-the-art positive barrier fish screens, and operations with the proposed project would occur in accordance with existing permits and contracts governing the use of CCWD's existing facilities, including the 1991 DWR-ECCID-CCWD Agreement as amended.

Name of Public Agency Approving Project: Contra Costa Water District

Name of Person or Agency Carrying Out Project: Contra Costa Water District

Exempt Status: (check one):

- Ministerial (Sec. 21080(b)(1); 15268)
- Declared Emergency (Sec. 21080(b)(3); 15269(a))
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c))
- Categorical Exemption. CEQA Guidelines Section 15301, Use of Existing Facilities
- Statutory Exemptions. CEQA Guidelines Section 15061(b)(3)

Reasons why project is exempt:

The project is exempt from CEQA pursuant to Public Resources Code Section 21080 (b)(3) and CEQA Guidelines Section 15269(a) due to the Declared Emergency. On May 10, 2021, Governor Newsom declared a State of Emergency (Proclamation) to address the severe drought condition in 41 California counties, including Contra Costa County. Government Code section 8571 authorizes the Governor to suspend certain regulatory requirements, including CEQA, under emergency conditions. The Proclamation orders the State "to expeditiously consider requests to move water to areas of need" and suspends CEQA for purposes of carrying out or approving this and other directives. The project will carry out this directive and will prevent or mitigate the impacts of the drought emergency without increasing the amount of water diverted.

As a separate and independent basis for determining the project to be exempt, the project also is statutorily exempt from CEQA pursuant to Public Resources Code section 21080(b)(4) and CEQA Guidelines section 15269(c) because it involves specific actions necessary to prevent or mitigate the drought emergency without increasing the amount of water diverted.

As a separate and independent basis for determining the project to be exempt, the project is also eligible for a Class 1 categorical exemption under CEQA Guidelines Section 15301 for Existing Facilities. Conveyance of the transfer water would occur through existing facilities, would not exceed the normal capacity of those facilities and would not otherwise increase the amount of water diverted.

Accordingly, no construction of new or expansion of existing water conveyance facilities is required to facilitate the proposed transfer of water.

As a separate and independent basis for determining the project to be exempt, the project also falls within the “common sense” exemption to CEQA, which applies “the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.” (CEQA Guidelines, § 15061(b)(3).) This exemption applies if “it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” (*Id.*) There will be no new physical construction or alterations to facilities associated with the project. The water will be conveyed through existing facilities and would not exceed their normal capacity and will not otherwise increase the amount of water diverted.

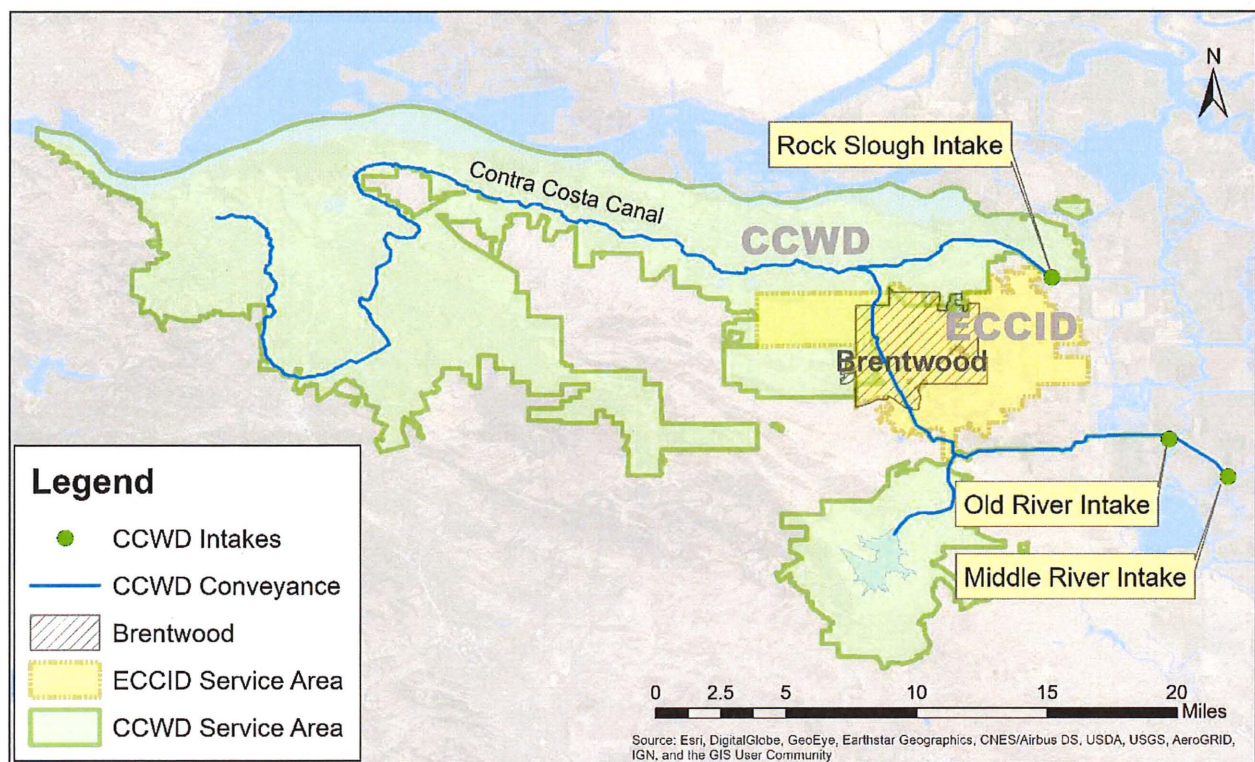


Figure 1. CCWD, ECCID and City of Brentwood Service Areas and CCWD Delta Intakes

Lead Agency Contact Person: Lucinda Shih Area Code/Telephone/Extension: (925) 688-8168

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature: Lucinda Shih Date: 9/23/22 Title: Water Resources Manager

Signed by Lead Agency Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: _____