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

El Dorado Irrigation District Five-year Conserved Water Transfer

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Response to Comments

Introduction

This document addresses written comments received during the public review period for the El Dorado Irrigation District (EID or District) Five-year Conserved Water Transfer (project) Initial Study / Negative Declaration (IS/ND). During the 30-day public review period (May 15 – June 13, 2024), EID received comment letters from the California Department of Fish and Wildlife (CDFW), Delta Stewardship Council (Council), and the California Department of Water Resources (DWR). Although CEQA does not require the lead agency to prepare written responses to comments received on a Negative Declaration (see 14 C.C.R. §§ 15073, 15074), EID has elected to prepare written responses to the comments received, for consideration by the public and the EID Board of Directors. This document contains EID's written responses to comments received and copies of the comments received are included in Attachment A.

Summary

The comments received do not require a substantial revision of the IS/ND because no significant effects were identified and no mitigation measures or project revisions need to be added in order to reduce significant effects to a less-than-significant level. Additionally, no substantial revisions to the IS/ND are necessary as a result of comments received. Based on the information provided within the IS/ND and the clarifying information provided herein, there is no substantial evidence that the proposed project or any of its aspects may have a significant effect on the environment (CEQA Guidelines §15070).

Responses to CDFW Comments

COMMENT 1: Reporting, Tracking, and Project Schedule
2.7-2.8 Reporting and Tracking Procedures, pages 11-12

Recommendation: CDFW recommends EID provide additional detail related to the timing of accounting and tracking, such as whether tracking will occur in real-time or at the end of the diversion season. CDFW also requests additional information related to how results of the Summary Report will be used to inform future transfers and/or project operations.

EID RESPONSE

Additional detail related to the timing of accounting and tracking described in Section 2.7 of the IS/ND as well as information on how the Summary Report will be used to inform future transfers and/or project operations is provided below. Section 2.7 from the IS/ND is provided here for convenient reference.

"This section describes the procedures EID proposes to employ to report and track information necessary to verify and adjust if needed the amount of conserved water available for transfer.

1. Estimating the amount of conserved water available for transfer
    - EID prepares forecast of June 1 through September 30 diversions into the Main Pipeline (gage A-18) for delivery to Reservoir 1 WTP.
    - Using the forecasted diversions, EID estimates the amount of water available for transfer by applying the methods described in the previous section (Quantity of Water – Table 3).
2. Reporting diversions
    - EID compiles gage A-18 data on a monthly basis to track the actual diversions into the Main Pipeline.
    - Using gage A-18 data, EID provides notification of any necessary adjustments to the amount of conserved water available for transfer.
    - EID provides final report calculating the amount of conserved water made available for transfer by applying the methods described in the previous section (Quantity of Water – Table 3). Consistent with Water Code 1011, the final report calculates the reduction in the use of the District's direct diversion water right through the reduced water losses achieved by the conservation piping project.
3. Reporting transfer water delivery to Jones pumping plant or Banks pumping plant
    - EID to provide records documenting the conveyance of transfer water from Folsom Reservoir to the Jones pumping plant or Banks pumping plant.

- EID to provide documentation that the delivery of transfer water complied with all current flow standards for the LAR from Lake Natoma to the confluence with the Sacramento River, 2019 BiOps, as well as the most up-to-date regulatory requirements for the Delta.

4. Summary Report

    - Following transfer, EID to provide a summary report showing an accounting of this water to verify it is trackable."

Item 1, "Estimating the amount of conserved water available for transfer" would be provided in advance of the transfer period. Consistent with other EID/Reclamation water contracts, EID would provide a forecast of operations by March 1 of each year. The forecasted operations would identify average monthly rates of diversion at gage A-18 and provide a table with EID's estimate of the amount of water available for transfer by month and for the entire transfer period by applying the methods provided in the IS/ND (Table 3 - Method of determining amount of conserved water available for transfer annually IS/ND at p. 11.)

Item 2, Average daily flow data collected at gage A-18 would be provided on a monthly basis. Consistent with other EID/Reclamation water contracts, EID would provide gage data for the past month by the 10th day of the subsequent month (e.g., June data would be submitted by July 10th). The monthly report of average daily flow data collected at gage A-18 data will be accompanied with a comparison of forecasted vs. actual diversions and will identify any necessary adjustments to the amount of conserved water available for transfer. The final report would include all monthly reports for the transfer period, documentation of any adjustments, and a final calculation of the amount of water made available for transfer. The final report would also include an accounting of the reduction in the use of the District's direct diversion water right through the reduced water losses achieved by the conservation piping project for the entire water year. The final report will be submitted to Reclamation annually by October 31.

Item 3, "Reporting transfer water delivery to Jones pumping plant or Banks pumping plant" will be confirmed with Reclamation following the transfer period.

Item 4, "Summary Report" will be provided to Reclamation within 30 days of obtaining information for item 3. The Summary Report will be one document that contains all reported information related to the transfer including the forecast estimating the amount of conserved water available for transfer (item 1) and the monthly reports and any adjustments and the final report (item 2). The Summary Report is intended to provide a transparent single-source document that will allow interested parties to review all documentation associated with the forecasting, measurement, accounting, and tracking of the conserved water from its origin through the Delta export facilities.

This comment requested additional clarifying information and did not identify potentially significant effects. This comment does not require any substantial revisions to the IS/ND. Based on the information provided within the IS/ND and the above clarifying information, there is no substantial evidence that the proposed project or any of its aspects may have a significant effect on the environment (CEQA Guidelines §15070).

COMMENT 2: Water Balance and Seepage Loss Estimates

Attachment B: Technical Memorandum, pages 9-20

Recommendation: CDFW appreciates the technical analysis performed to estimate seepage losses. CDFW is curious as to whether EID has explored carryover effects of consecutive wet or dry years on estimated seepage loss percentages; for example, if three or more wet years occur consecutively, does 33% remain an appropriate seepage loss estimate? CDFW recommends exploring potential effects of carryover groundwater storage as a result of water year types, or accumulated deficits resulting from consecutive dry or critical years, in order to inform and potentially refine seepage loss estimates. Additionally, CDFW recommends updating this analysis with data from water year 2021, as only 10 years of data were used to determine seepage loss estimates.

EID RESPONSE 2

The referenced 33% is regarding "seepage water lost from the Upper Main Ditch that historically reached the SFAR prior to the piping project and therefore is not available for transfer because it was previously available to downstream water users." (IS/ND, at p. 9.) Seepage water that historically reached the SFAR is only a portion of total seepage losses from the Main Ditch, and is elsewhere referred to in the IS/ND as the "discount factor." (See, e.g., IS/ND, at p. 10 [referring to the "33% discount factor"].)

The 33% discount factor is identified in the Technical Memorandum prepared by GEI Consultants (GEI Tech Memo). GEI analyzed monthly data for water deliveries to the Main Ditch and seepage losses from the Main Ditch for the 2010 to 2020 period, which includes three wet years, one above normal year, two below normal years, two dry years, and three critically dry years. (GEI Tech Memo, p. 3.)[1]

Regarding the potential effect of consecutive wet years or dry or critically dry years on the seepage loss discount factor, the data set utilized for the GEI Tech Memo includes a period of consecutive dry and critically dry water years during the 2013-2015 time period. (GEI Tech Memo, p. 11, Table 1.) Thus, the analysis already reflects the effect of consecutive dry or critically dry years.

In addition, the data set utilized for the GEI Tech Memo includes a period of relatively "wet" years during the 2016-2019 time period, which included two wet water year types and no intervening dry or critically dry water year types during that four-year period. (GEI Tech Memo, p. 11, Table 1.) In addition, it is highly unusual for the region to experience sequential wet water year types. For example, during the most recent 20 years, the region has only experienced one instance of consecutive wet water years in 2005-2006, which was preceded by a dry water year in 2004 and a critically dry water year in 2007. The time period utilized for the GEI Tech Memo includes two wet water years in a three year time period without any intervening or preceding dry to critically dry

[1] As described in the IS/ND, the water year categories for this analysis are "based on DWR's Bulletin 120 forecast of April through July unimpaired flow for the American River below Folsom Lake, which are updated monthly from February to May, with the final water year type determined in May." (IS/ND, at p. 10.)

water year types. Thus, the 2010-2020 time period utilized by GEI is representative of both "wet" and "dry" time periods.

Regarding the recommendation to update the analysis with data from water year 2021, there are several reasons why 2021 data was not included in the GEI analysis. The primary reason is that the GEI Tech Memo relies upon and builds from the data and analysis presented in the Tully & Young Technical Memorandum (T&Y Tech Memo). The T&Y Tech Memo was prepared and finalized in 2021. Therefore, at the time the T&Y Tech Memo was prepared, 2020 data was the most recent complete year of operational data available for the Main Ditch. The 2010 to 2020 study period for the GEI Tech Memo reflects the available data utilized for the T&Y Tech Memo, which the GEI Tech Memo relies upon to analyze and estimate seepage losses. Therefore, the GEI Tech Memo utilized the best available data for this particular analysis.

In addition, 2021 data is not be representative of normal EID operations due to drought conditions and Caldor Fire damages to conveyance structures. In June of 2021, the District's Board of Directors adopted Resolution No. 2021-009, declaring a District drought emergency and a Stage 1 Water Alert, and requesting that District customers voluntarily reduce water usage by 15%. The District's declared drought emergency remained in effect throughout the remainder of 2021. Further, in August of 2021, EID's water conveyance infrastructure suffered significant damages from the Caldor Fire, which impeded EID's ability to convey water as it normally would for the remainder of 2021. The effects of drought and the Caldor Fire on the exercise of water right S000934 were reported by the District in its annual Supplemental Statement of Water Diversion and Use for 2021 and 2022.[2] Thus, even if 2021 data would have been available for the T&Y Memo, and thus relied upon for the GEI Tech Memo, it would not have been representative of normal EID operations for the Main Ditch.

In summary, the 2010-2020 time period utilized for the GEI Tech Memo includes both a "dry" period of water years (2013-2015) and a relatively "wet" period of water years (2016-2019). Therefore, the technical analysis reflects how carryover groundwater storage or accumulated deficits affected the amount of seepage losses from the Main Ditch that historically reached the South Fork of the American River.

This comment requested additional clarifying information and did not identify potentially significant effects. This comment does not require any substantial revisions to the IS/ND. Based on the information provided within the IS/ND and the above clarifying information, there is no substantial evidence that the proposed project or any of its aspects may have a significant effect on the environment (CEQA Guidelines §15070).

[2] See annual statements available at SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE (ca.gov) and SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE (ca.gov) respectively.

COMMENT 3: Additional Information Related to Quantity of Conserved Water
2.0 Project Description* and *Attachment B: Technical Memorandum

Recommendation: CDFW recommends EID revisit the 2016 water loss analysis and critically assess whether "discussions with EID staff" and "review of mathematical models" provide sufficient information to determine estimated losses outside of the range of observed flows. Should these estimates be deemed insufficient and removed from the analysis, CDFW recommends including data from water year 2021 to the dataset.

CDFW also recommends EID make available the previous record of consumptive use or stored water under the water right proposed for transfer to confirm the quantity of conserved, transferable water. The calculations and the record of previous uses under water right S009034 determine water eligible for transfer and may affect the availability of water for downstream users, including public trust resources such as fish and wildlife, and ultimately determine if the conserved water transfer will avoid potential injury to downstream beneficial uses and public trust resources (Wat. Code, § 1706).

EID RESPONSE 3

Water Loss Analysis

The comment appears to be in reference to the Tully & Young Technical Memorandum included as Attachment A to the IS/ND (T&Y Tech Memo).[3] The T&Y Tech Memo (at p. 2) describes the following:

> Digital water meter data was available beginning in 2009 of recorded releases from Forebay into the Main Ditch and from the Main Ditch into the WTP inlet. The loss in this section of the ditch would typically be determined from the difference between these two values with a correction for backwash return flows ahead of the WTP inlet meter. However, this meter was found to be producing erroneous data between 2009 and 2015, which resulted in the prior WTP flow records being deemed unreliable. Prior to the start of 2016 deliveries, the WTP inlet flow meter was replaced and calibrated, assuring more reliable data going forward. Separate single-day ditch flow measurements were also taken at various flow rates over the season (Attachment 3) to supplement and calibrate, if necessary, the WTP inlet meter data. With the improved data source, electronically recorded data (hereafter "SCADA data") during 2016 became the best source for deriving loss estimates and was used for EID's 2016 Upper Main Ditch Annual Water Loss analysis (Attachment 4).

Thus, the T&Y Tech Memo describes that prior to 2016, during the 2009 to 2015 period, the flow meter was producing unreliable data.

Due to concerns with the meter data prior to 2016, Tully and Young:

[3] The comment lists Attachment B: Technical Memorandum, however, the quoted language appears in the Attachment A Technical Memorandum. Therefore, EID considers this comment to be in reference to the Tully & Young Technical Memorandum.

> analyzed the entirety of the SCADA data collected by EID during 2016, 2017, 2018, 2019, and 2020, as well as recent soils testing and seepage modeling completed in December 2015 by SAGE Engineers (Attachment 5). The 2016, 2017, 2018, 2019, and 2020 data included recorded flows released from Forebay as well as flows entering the WTP. The difference between these two data sets, excluding backwash water returned ahead of the WTP meter, represents estimated water lost during conveyance in the Main Ditch.

(T&Y Memo, at p. 4.)

The T&Y Tech Memo also describes that the 2016-2020 metered data represented a limited range of water conveyance flows in the Main Ditch. (T&Y Tech Memo, at p. 4.) The T&Y Tech Memo describes the approach for estimating water losses over the broader range of historical flows conveyed in the Main Ditch, as follows:

> Deriving a broader spectrum of estimated losses over varying flow rates required interpretations and extrapolations using data from the prior studies, professional understanding of hydraulics, and EID operator knowledge to develop relationships between flow rates and estimated losses. The results provide a basis that can be used for estimating historical losses, and for projecting future losses.

(T&Y Tech Memo, at p. 4.) The T&Y Tech Memo further describes, as quoted in the CDFW comments:

> To derive estimated losses for flow rates outside the range recorded during the 2016 operations, several factors were assessed. After discussions with EID staff and review of mathematical models developed using the 2016 data, ditch cross section geometry was assessed to help develop loss rates outside the 2016 empirical range.

(T&Y Tech Memo, at p. 4.)

Ultimately, Tully and Young utilized a variety of data and information sources, including flow meter data, data from prior studies, and models, to develop a representative curve and equation to correlate flow to the loss percentage. (T&Y Tech Memo, at pp. 4-5). This derived curve aligned well with the prior studies and reflects the best available information for estimating historical losses from the Main Ditch. (See T&Y Tech Memo, at pp. 4-8.) Therefore, no additional data is necessary to accurately estimate these losses.

Consumptive Use Under Water Right S009034

As described in the IS/ND, the "source of water available for transfer is EID's pre-1914 direct diversion water right from the South Fork of the American River (SFAR)." (IS/ND, at p. 3.) This pre-1914 water right is for direct diversion of up to 70 cubic feet per second (cfs) from the SFAR; reported under Supplemental Statement of Water Diversion and Use No. S009034.

The annual records of use for water right S009034 are publicly available through the State Water Resources Control Board's Electronic Water Rights Information Management System ("eWRIMS") database.[4] This water right is utilized for both non-consumptive hydropower generation purposes and also consumptive domestic/municipal purposes. The State Water Resources Control Board does not require these annual reports to separately report on consumptive vs. non-consumptive beneficial uses. However, only water utilized for consumptive domestic use was historically conveyed through the Main Ditch. A portion of the water diverted under water right S009034 was historically conveyed through the Main Ditch and water was lost/consumed through seepage and evaporation from the Main Ditch, prior to the completion of the Main Ditch Piping Project in 2022.

Water Code section 1011 provides that where the use of water has been reduced as a result of water conservation efforts, the conserved water may be transferred. (Water Code section 1011.) Water Code section 1011 defines "water conservation" as "the use of less water to accomplish the same purpose or purposes of use allowed under the existing appropriative right." (*Id*.) For this proposed conserved water transfer, the District achieved water conservation by being able to divert and use less water to meet the same level of consumptive domestic demand, by piping the water previously conveyed and lost through the Main Ditch. Thus, the water previously lost through the Main Ditch is now the conserved water.

After completion of the Main Ditch Piping Project in 2022, the District has reported the water conserved under water S009034 in its annual water rights reporting to the State Water Resources Control Board. For example, the annual report for the 2021-2022 water year[5] includes the following statement:

> The piping project converted the prior water conveyance through the open and unlined Upper Main Ditch, to a secure raw water transmission pipeline. On January 24, 2022, the EID Board of Directors adopted Resolution 2022-004, attached hereto, recognizing the conserved water that would result from implementing the piping project and declaring its intention to retain control and ownership of such water for its intended use as it sought fit. The piping project was completed during spring 2022 and EID began conserving water on May 11, 2022, when operation of the new pipeline started for the first time.
>
> The amount of conserved water saved with completion of the piping project is dependent on the operation of Reservoir 1 Water Treatment Plant and is calculated based on the volume of water that is measured and conveyed through the pipeline from the Forebay to the Reservoir 1 Water Treatment Plant. Using historical gage data from the Main Ditch prior to piping, EID developed a methodology to calculate the amount of water loss that historically occurred in the Main Ditch due to seepage and evapotranspiration. The amount of water conserved from the piping project is

[4] The eWRIMS database is accessible at California Integrated Water Quality System.
[5] See annual report available at SUPPLEMENTAL STATEMENT OF WATER DIVERSION AND USE (ca.gov)

calculated by the amount of water entering the new pipeline and calculating the amount of water that would have been lost through the Main Ditch prior to the piping project. This calculation provides the amount of water conserved from the piping project, at particular flows and seasons. It was estimated that the amount of water savings following completion of the project would be up to 2,021 AF per calendar year, with an average water savings of 1,807 AF per calendar year depending on operations of the Reservoir 1 Water Treatment Plant. Following installation of the pipeline, the calculated amount of water conserved during 2022 operations of the Reservoir 1 Water Treatment Plant from May 10 –October 26, 2022 was 1,142 AF. The operational period of the Main Pipeline was limited during the 2022 water year while reconstruction of conveyance facilities damaged during the Caldor Fire was performed.

Regarding the quantity of conserved water available for transfer, the method for calculating that quantity is detailed in the IS/ND and the technical memoranda. (IS/ND, pp. 8-11; IS/ND Attachments A and B.) This methodology accounts for the portion of Main Ditch seepage that may have historically reached the SFAR and been available to downstream water users or instream purposes (i.e. "discount factor"). (See IS/ND, at pp. 8-11; IS/ND, Attachment B.) The proposed transfer is conservatively protective of these downstream uses, by incorporating "the most conservative estimate for the percent of seepage losses reaching the SFAR (i.e., 33% discount factor) regardless of the actual water year designations in 2024 – 2028." (IS/ND, at p. 10.) "Therefore, 33% of the amount of conserved water available that is subject to this discount factor is not available for transfer." (*Id*.)

In summary, the IS/ND accounts for historical water losses from the Main Ditch through the exercise of water right S009034 and provides a methodology for estimating the quantity of water conserved through the new piped conveyance. The methodology is protective of downstream uses by providing a technical analysis of Main Ditch seepage that may have historically reached the SFAR and been available for downstream water uses. The proposed transfer utilizes the most conservative discount factor of 33%, which likely underestimates the amount of water available for transfer. This methodology is protective of downstream beneficial uses and is consistent with the applicable laws governing water transfers.

This comment requested additional clarifying information and did not identify potentially significant effects. This comment does not require any substantial revisions to the IS/ND. Based on the information provided within the IS/ND and the above clarifying information, there is no substantial evidence that the proposed project or any of its aspects may have a significant effect on the environment (CEQA Guidelines §15070).

COMMENT 4: Impacts to Folsom Reservoir Coldwater Pool

4.4 Biological Resources, pages 24-27

Recommendation: In order to fully evaluate any potential impacts of the proposed Project to the volume of the coldwater pool and coldwater releases to the Lower American River, CDFW recommends EID consult with Reclamation and conduct a temperature analysis. The

ND states that transfer water may either remain instream in the SFAR until Folsom Reservoir, or it may be diverted into the El Dorado Canal and Forebay and returned to the SFAR after non-consumptive power generation. The ND should consider whether the transfer will lead to more water from the El Dorado Forebay entering Folsom Reservoir and provide information on the typical water temperatures of the Forebay and SFAR during the transfer period.

The temperature analysis should verify that the volume of coldwater habitat available in the reservoir and for downstream releases will not change as a result of this project, and that Reclamation will continue to be able to meet temperature requirements in the Lower American River.

EID RESPONSE 4

Impacts to Folsom Reservoir Coldwater Pool

There are no impacts to Folsom Reservoir coldwater pool as a result of the proposed project. In short, this is because the existing baseline conditions and the conditions with the proposed project upstream of Folsom Reservoir are the same. There are no operational changes at EID facilities upstream of Folsom Reservoir (i.e., El Dorado Diversion Dam, El Dorado Forebay, El Dorado Powerhouse) associated with the proposed project when compared to the current baseline/environmental setting. Because there are no operational changes at these facilities, there are no changes in environmental conditions upstream of Folsom Reservoir (e.g., timing or volume of water entering Folsom Reservoir) that would affect the coldwater pool.

"Under CEQA, the impacts of a proposed project must be evaluated by comparing expected environmental conditions after project implementation to conditions at a point in time referred to as the baseline. The changes in environmental conditions between those two scenarios represent the environmental impacts of the proposed project" (AEP 2016[6]).

EID's operations of its hydroelectric facilities (Project No. 184), which includes the El Dorado Diversion Dam, El Dorado Forebay, and El Dorado Powerhouse are dictated by the terms and conditions contained within a 2006[7] license from the Federal Energy Regulatory Commission (FERC). The IS/ND describes these facilities: "EID also owns and operates the El Dorado Hydroelectric Project, which is licensed by the Federal Energy Regulatory Commission (FERC) and consists of 4 storage reservoirs (Echo Lake, Lake Aloha, Caples Lake, Silver Lake), the El Dorado Diversion Dam on the SFAR, approximately 22 miles of flumes, canals, siphons, and tunnels that make up the El Dorado Canal, the El Dorado Forebay that re-regulates water for hydropower and consumptive uses, and a powerhouse." (IS/ND, at p.

[6] Association of Environmental Professionals (AEP). CEQA Portal Topic Paper Baseline and Environmental Setting https://ceqaportal.org/tp/Baseline%20and%20Environmental%20Setting%20Topic%20Paper%2008-23-16.pdf

[7] FERC License for the El Dorado Hydroelectric Project, October 2006. https://www.eid.org/home/showpublisheddocument/1089/635369711672500000

3.) The operation of Project No. 184 facilities is part of the baseline/environmental setting and the operation of these facilities would not change as a result of the proposed project.

The IS/ND describes that the source of water for the proposed project is water that is conserved as a result of the Upper Main Ditch Piping Project (piping project). "The piping project converted the prior water conveyance through the open and unlined Upper Main Ditch, to a secure raw water transmission pipeline (i.e., Main Pipeline). The Main Pipeline conveys water from the El Dorado Forebay to the Reservoir 1 WTP for treatment and delivery of water to EID's service area for consumptive use. The piping project was completed during spring 2022." (IS/ND at pp. 3-4.) Because the piping project was completed in 2022, the operation of the Main Pipeline and the water conservation associated with its operation are also part of the baseline/environmental setting.

The IS/ND also describes how conditions upstream of Folsom Reservoir under the baseline/environmental setting and the proposed project are the same and explicitly defines the baseline condition: "**With or without the proposed project**, the conserved water would either remain instream in the SFAR or be used for non-consumptive hydropower production and then returned into the SFAR and flow into Folsom Reservoir. Therefore, **the delivery of up to 740 AF of EID's conserved water to Folsom Reservoir is considered the baseline condition**." (IS/ND, at p. 26 [emphasis added].)

A factor that could influence whether conserved water remains instream in the SFAR or is diverted for hydropower generation before being returned to the SFAR is not caused by or associated with the proposed project; however, is disclosed in the IS/ND: "**in the event that the El Dorado Powerhouse is not operating** the transfer water would not be diverted at the El Dorado Diversion Dam and would remain instream in the SFAR." (IS/ND, at p. 4 [emphasis added].) If conserved water is available to divert for hydropower generation, EID would divert water from the SFAR at the El Dorado Diversion Dam for hydropower generation with or without the proposed project. If the Powerhouse were offline due to scheduled or unscheduled maintenance activities or other reasons and water was still available to divert, the conserved water would remain instream in the SFAR with or without the proposed project.

In summary, under both the baseline and the proposed project, the same amount of water would be diverted at the El Dorado Diversion Dam and routed through the El Dorado Forebay and El Dorado Powerhouse for hydropower generation or remain instream in the SFAR. There would be no changes to EID's operations of its facilities upstream of Folsom Reservoir and all facilities would be operated consistent with existing regulatory requirements and authorized uses. The transfer would not lead to more water from the El Dorado Forebay entering Folsom Reservoir than otherwise would occur without the proposed project. Therefore, including or analyzing information on water temperatures in the El Dorado Forebay and the SFAR is not necessary in the IS/ND.

The conclusion that additional information on water temperature is not necessary to support the findings in the IS/ND is also relevant to CDFW's recommendation that "EID consult with Reclamation and conduct a temperature analysis" to "verify that the volume of

coldwater habitat available in the reservoir and for downstream releases will not change as a result of this project, and that Reclamation will continue to be able to meet temperature requirements in the Lower American River." EID has consulted with Reclamation on the proposed project and Reclamation has issued an Environmental Assessment (EA) for the proposed federal action of issuing a Warren Act Contract for conveyance of non-Central Valley Project water (i.e., EID's conserved water) through federal facilities.[8] Reclamation's EA concludes "there would be no change in reservoir storage or reservoir water temperature or corresponding changes to the volume of coldwater pool in Folsom Reservoir with implementation of the Proposed Action relative to the No Action Alternative. Because there would be no change in the volume of the coldwater pool, implementation of the Proposed Action would not affect Reclamation's management of the coldwater pool for the protection of aquatic species downstream of Folsom Reservoir."

In conclusion, the proposed project would not have any potentially significant direct, indirect, or cumulative impacts to Folsom Reservoir coldwater pool. This comment did not identify potentially significant effects or require any substantial revisions to the IS/ND. Based on the information provided within the IS/ND and the above clarifying information, there is no substantial evidence that the project or any of its aspects may cause a significant effect on the environment (CEQA Guidelines §15070).

[8] Five-Year Warren Act Contract with Westlands Water District for Storage and Conveyance of up to 740 Acre-Feet Annually, Environmental Assessment, CGB-EA-2024-025
https://www.usbr.gov/mp/nepa/nepa_project_details.php?Project_ID=54540

Response to Council Comment

COMMENT 1: Covered Action Determination and Certificate of Consistency with the Delta Plan

Based on the project location and scope, as provided in the IS/ND, the project appears to meet the definition of a covered action. Water Code section 85057.5(a) states that a covered action is a plan, program, or project, as defined pursuant to Section 21065 of the Public Resources Code, that meets all of the following conditions:

1) *Will occur, in whole or in part, within the boundaries of the Delta or Suisun Marsh.* The project occurs within the boundaries of the Delta because the project proposes to transfer water through the Delta on an annual basis. This water movement is not part of routine State Water Project (SWP) or Central Valley Project (CVP) operations as the water being transferred is not part of the water rights held by the projects.
2) *Will be carried out, approved, or funded by a State or a local public agency.* EID, a local public agency, is proposing a multi-year water transfer.
3) *Is covered by one of the provisions of the Delta Plan.* Provisions of the Delta Plan that may apply to this project are detailed below.
4) *Will have a significant impact on achievement of one or both of the coequal goals or the implementation of government-sponsored flood control programs to reduce risks to people, property, and State interests in the Delta.* This project may have a significant impact on the coequal goals to provide a reliable water supply for California and to protect, restore, and enhance the Delta ecosystem.

EID RESPONSE 1

Covered Action Determination

Consistent with CCR Title 23 § 5001(k)(3), as the local agency approving and carrying out the project, EID has determined that the proposed project is not a "Covered Action" because the proposed project does not meet all the conditions specified by Water Code section 85057.5(a). Specifically, the proposed project does not meet condition 4 – a project that *will have significant impact on achievement of one or both of the coequal goals.* Water Code section 85054 defines coequal goals as "two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem."

EID has determined that the proposed project will not have a significant effect on the goal of providing a more reliable water supply for California. The proposed project involves the transfer of up to 740 acre-feet (AF) annually from EID to Westlands Water District (WWD) from 2024 – 2028. While the proposed project would help supplement WWD's water supply when allocations of other water supplies are constrained, the small quantity of water being transferred (up to 740 AF annually) will not significantly affect (positively or negatively) the goal of providing a more reliable water supply. The maximum transfer volume of 740 AF in comparison to the 15-year average of water exports from the Delta of 4,070,000 AF[9] illustrates the de minimis scale of the proposed project – 740 AF would represent only 0.018% of total exports. The IS/ND identified the de minimis

[9] Water Exports, 15 Year Rolling Average of Water Exports, Delta Stewardship Council, https://viewperformance.deltacouncil.ca.gov/pm/water-exports

scale of the proposed project as well: “releases from Folsom Reservoir as small as approximately 4 cfs (8 acre-feet per day) would be sufficient to convey the transfer water downstream for delivery to WWD’s service area. For comparison, instream flows in the LAR in 2022, a dry water year, ranged from approximately 1,500 cfs to 5,300 cfs during the June through September time period (DWR 2023a). In 2021, a critically dry water year, instream flows in the LAR ranged from approximately 600 cfs to 2,000 cfs during the June through September time period (DWR 2023b). Even under the lowest flow condition during this period (i.e., 600 cfs) releases of 4 cfs – 9 cfs would only represent 0.6% – 1.5% of the total flow in the LAR. This exceedingly small change in instream flows in the LAR with implementation of the proposed project would have no discernable effects. As such, direct or indirect impacts to water resources in the LAR with implementation of the proposed project would be less than significant.

From the LAR, transfer water would flow to the Sacramento River and then to the Delta. The relative proportion of transfer water would be further reduced when introduced to the flows in the Sacramento River and Delta.” (IS/ND at p. 46.)

The proposed project would also not significantly affect water supply reliability (positively or negatively) because the ability to transfer water in any year is dependent on a number of factors (e.g., hydrologic conditions, system operations, demands). Because these factors vary from year there is no guarantee that a transfer would occur and therefore water transfers can not be identified as a “reliable” water supply, nor do water transfers affect the reliability of other water supplies.

In summary, due to the small volume of water to be transferred with the proposed project and because the varied factors that may limit the ability to transfer water in any year, the proposed project would not reasonably be identified as an action that would significantly affect the coequal objective of providing a more reliable water supply for California.

EID has also determined that the proposed project will not have a significant effect on the goal of protecting, restoring, and enhancing the Delta ecosystem. As described above, the small volume of water to be transferred with the proposed project would not affect water supply reliability. Likewise, because of the small quantity of water to be transferred with the proposed project there would be no significant (positive or negative) impacts on the goal of protecting, restoring, and enhancing the Delta ecosystem. Additionally, as described in the IS/ND, the proposed project would be implemented in compliance with all applicable regulatory requirements governing the Delta:

“The transfer water released from Folsom Reservoir for delivery to WWD would be coordinated with the systemwide operation of the CVP and SWP. Coordinated operations of the CVP and SWP are subject to compliance with the National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (USFWS) 2019 Biological Opinions for the Long-Term Operation of the CVP and SWP (2019 BiOps) (USFWS 2019; NMFS 2019), SWRCB Water Rights Decision 1641 (D-1641), as well as any temporary or modified regulatory requirements that may be in effect. Reclamation would provide the transfer water in such a manner that would not disrupt normal CVP and SWP operations, while complying with all current flow standards for the LAR from Lake Natoma to the confluence with the Sacramento River, 2019 BiOps, as well as the most up-to-date regulatory requirements for the Delta. The transfer water

would also be subject to the terms and conditions specified in the Warren Act Contract between Reclamation and WWD and/or a Conveyance Agreement with DWR, which would include terms to apply carriage losses to the transfer water to protect water quality in the Delta and account for conveyance losses during delivery (e.g., up to an estimated 30% carriage loss through the Delta and additional 5% percent for conveyance losses for the use of the canal system)." (IS/ND at p. 7.)

Because the proposed project involves the transfer of a de minimis volume of water and because the transfer would only occur in compliance with all applicable regulatory requirements, the proposed project would not reasonably be identified as an action that would significantly affect the coequal objective of protecting, restoring, and enhancing the Delta ecosystem.

In summary, EID has determined that the proposed project is not a "Covered Action" because the proposed project does not meet condition 4 of Water Code section 85057.5(a). Specifically, the proposed project would not have significant impact on achievement of one or both of the coequal goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. Therefore, a certification of consistency is not required for the proposed project.

This comment requested additional clarifying information and did not identify potentially significant effects. This comment does not require any substantial revisions to the IS/ND. Based on the information provided within the IS/ND and the above clarifying information, there is no substantial evidence that the proposed project or any of its aspects may have a significant effect on the environment (CEQA Guidelines §15070).

Response to DWR Comments

COMMENT 1: General Comment - The IS/ND needs to provide adequate data and analysis to support the conclusion that the water conserved and available for transfer is projected to be up to 740 AF per year since the impact analyses in this environmental document are based on the projected transferable amount.

Water Code Section 1011 defines "water conservation" as "the use of less water to accomplish the same purpose or purposes of use allowed under the existing appropriative right." Furthermore, Water Code Section 1011(b) establishes that a water rights holder who reduces water use as a result of conserving water is authorized to use, sell, exchange or otherwise transfer such water. However, Water Code Section 1706 allows the Proposed Project to move forward only if others are not injured by the change. Since Water Code Section 1706 requires the Proposed Project to have no injury to others, and CEQA requires the analysis of potential impacts, it is imperative that the IS/ND provides the information which forms the basis of the conclusion that the 740 AF amount of transferable water is based on a *reduction in use*. IS/ND reviewers need to be able to verify that 740 AF is the accurate amount of conserved water available for transfer pursuant to Water Code Section 1011(b).

The IS/ND potentially overestimates the amount of transfer water made available through conservation, which may result in inaccurate impact conclusions in this IS/ND and in injury to others, including downstream legal water users and biological resources, and may not comply with Water Code Section 1706.

The amount of transferable water should be calculated as the consumptive use of the Upper Main Ditch minus consumptive use of the Main Pipeline. This IS/ND does not provide any data, measurements, or analysis to quantify consumptive use for the Main Pipeline. The Upper Main Ditch total conveyance loss is estimated based on a look-up table that depends on season and the flow being conveyed. The look-up table was derived from a correlation that is based only on 2016 and 2017 data (Tully & Young Technical Memo, page 4). When the correlation is plotted and compared to other years of data, the flow measurements show significant deviation from the curve (Tully & Young Technical Memo, page 7). Furthermore, the IS/ND estimates that the surface water evaporation loss of the Upper Main Ditch is eight percent of the total conveyance loss, but it does not provide any supporting analysis based on surface area estimates of the Upper Main Ditch.

EID RESPONSE 1

IS/ND Data and Analysis

The IS/ND provides adequate data and analysis to support the conclusion that the amount of conserved water available for transfer is up to 740 AF annually and to support the impact analysis conclusions that are based on that transferrable amount. Additionally, the analysis in the IS/ND

supports the conclusion that there would be no injury to downstream water users as a result of the proposed project.

The studies discussed and attached to the IS/ND are based on the technical analyses prepared by professional engineers and provide the best available methodologies to 1) quantify the water losses associated with Upper Main Ditch water conveyance prior to the piping project (and thus determine the amount of water that is conserved through the operation of the new Main Pipeline) and 2) quantify the amount of seepage losses from the Upper Main Ditch that historically returned to the SFAR (and therefore are not available for transfer and are available to downstream water users).

The methodology for calculating the amount of conserved water available with the operation of the Main Pipeline is provided in the Tully & Young Technical Memorandum (T & Y Tech Memo) and included as Attachment A to the IS/ND. Tully and Young utilized a variety of data and information sources, including flow meter data, data from prior studies, and models, to develop a representative curve and equation to correlate flow to the loss percentage. (T&Y Tech Memo, at pp. 4-5). This derived curve aligned well with the prior studies and reflects the best available information for estimating historical losses from the Main Ditch. (See T&Y Tech Memo, at pp. 4-8.)

In reference to the representative curve and equation to correlate flow to the loss percentage, DWR states in Comment #1 that "When the correlation is plotted and compared to other years of data, the flow measurements show significant deviation from the curve." However, the assessment of this correlation provided in the T & Y Tech Memo is contrary to DWR's assessment and states "These comparisons are all represented in Figure 3, which illustrates the derived curve under this analysis is a reasonable representation of likely losses." (T & Y Tech Memo at p. 6.)

The data provided in the T & Y Tech Memo provides adequate information to accurately estimate historic losses from the Upper Main Ditch and thus accurately estimate the amount of water conserved with the operation of the Main Pipeline.

Regarding DWR's comment that the "amount of transferable water should be calculated as the consumptive use of the Upper Main Ditch minus consumptive use of the Main Pipeline," the inspection and testing of the new pipeline confirmed that this new conveyance system does not experience consumptive losses. The Main Pipeline is a new mortar-lined and coated welded steel pipe that was first operated in 2022. The Main Pipeline has welded joints along the pipeline alignment which when properly installed provide a seamless leak-free joint. As part of the inspection and acceptance process during construction, all segments of the pipeline were tested to 130 pounds per square inch or approximately 150% of maximum normal operating pressure with no observed leaks. Additionally, the American Iron and Steel Institute's Welded Steel Pipe Design Manual 2007 Edition identifies the leak resistance for this type of pipeline as "leak-proof."

Because no losses are expected from the new Main Pipeline and the T & Y Tech Memo provides accurate loss estimates from the Upper Main Ditch, it is reasonable to utilize the data and analyses presented in the T&Y Tech Memo as the basis of the methodology for estimating the amount of conserved water made available by operation of the Main Pipeline.

The methodology for calculating the amount of conserved water available for transfer is protective of downstream uses by accounting for the water historically lost from the Main Ditch through seepage that reached the SFAR prior to the piping project and therefore is not available for transfer because it was previously available to downstream water users. As described in the IS/ND:

"The amount of conserved water available for transfer each year will be calculated based on historical water losses from the Upper Main Ditch in terms of percentage of water conveyed, applied to actual diversions into EID's new Main Pipeline from the El Dorado Forebay to the Reservoir 1 WTP as measured by gage A-18. This allows calculation of the amount of water that would have been historically lost through conveyance in the Upper Main Ditch, which is now conserved through conveyance through the Main Pipeline. The diversion data from gage A-18 will be used to calculate the amount of water that would have historically been lost from the Main Ditch due to evaporation and seepage prior to the piping project (i.e., conserved water available). The amount of conserved water available for transfer is subject to adjustments to account for water historically lost from the Main Ditch through seepage that reached the SFAR prior to the piping project and therefore is not available for transfer because it was previously available to downstream water users." (IS/ND, at p. 8.)

The methodology to quantify the amount of seepage losses from the Upper Main Ditch that historically returned to the SFAR is provided in the GEI Consultants Memorandum (GEI Memo) and included as Attachment B to the IS/ND. The GEI Consultants technical analysis was performed in response to a request that EID received from a downstream water user, the Bureau of Reclamation, to ensure that there was no injury to downstream water users consistent with Water Code section 1706. The methodology provided in the IS/ND for calculating the amount conserved water available for transfer accounts for the portion of Main Ditch seepage that may have historically reached the SFAR and been available to downstream water users or instream purposes (i.e. "discount factor"). (See IS/ND, at pp. 8-11; IS/ND, Attachment B.) The proposed transfer is conservatively protective of these downstream uses, by incorporating "the most conservative estimate for the percent of seepage losses reaching the SFAR (i.e., 33% discount factor) regardless of the actual water year designations in 2024 – 2028." (IS/ND, at p. 10.) "Therefore, 33% of the amount of conserved water available that is subject to this discount factor is not available for transfer." (Id.)

In summary, the IS/ND accounts for historical water losses from the Main Ditch and provides a methodology for estimating the quantity of water conserved through the new piped conveyance. The methodology is protective of downstream uses by providing a technical analysis of Main Ditch seepage that may have historically reached the SFAR and been available for downstream water uses. The proposed transfer utilizes the most conservative discount factor of 33%, which likely underestimates the amount of water available for transfer. This methodology is protective of downstream beneficial uses and is consistent with the applicable laws governing water transfers.

DWR also requests analysis to support the estimate of 8% evaporation losses. EID developed the methodology for determining the amount of conserved water available for transfer in consultation with Reclamation. During this consultation, it was acknowledged that seepage was the primary type of loss along the Upper Main Ditch and Reclamation suggested 8% was an appropriate estimate of evaporation because it provides a conservative estimate that 92% of losses are attributable to seepage. This ultimately results in the majority of the total amount of conserved water available

(92%) as being subject to a further "discount factor" for losses that may have reached the SFAR and therefore would be available to downstream water users. (IS/ND, at pp. 8 – 11.) Therefore, the methodology likely underestimates the amount of water available for transfer, to the benefit of downstream water users, by applying the conservative assumption that the majority of historical losses (92%) from the Main Ditch were seepage losses, subject to the 33% "discount factor." These various conservative assumptions embedded in the methodology result in the amount of conserved water available for transfer being significantly less than the total amount of water conserved, to ensure that there is no potential injury to downstream water uses.

This comment requested additional clarifying information and did not identify potentially significant effects. This comment does not require any substantial revisions to the IS/ND. Based on the information provided within the IS/ND and the above clarifying information, there is no substantial evidence that the proposed project or any of its aspects may have a significant effect on the environment (CEQA Guidelines §15070).

COMMENT 2: Specific Comment - 4.4 Biological Resources

The lack of data to support the projected water conserved in the IS/ND may result in over-accounting of the water available for transfer and the transfer of water which is intended for downstream users, including biological resources. Without the necessary data, an impact analysis for these potential impacts cannot be accurately assessed.

Biological resources downstream of the El Dorado Forebay entering Folsom Reservoir and into the Lower American River that may be impacted include riparian habitat, sensitive natural communities, and habitat conservation plan areas. Without data to support the accuracy of the conserved water eligible for transfer, the Proposed Project has the potential to impact these downstream biological resources by transferring water that would have otherwise been available to benefited downstream biological resources. Therefore, the IS/ND needs to provide the data to support the projected water conserved to conclude the less than significant impact on Biological Resources.

Please provide the data and analysis to confirm the amount of water available for transfer necessary to undertake the impact evaluation and re-evaluate these potential impacts. To accurately analyze the Biological Resources impacts resulting from this proposed transfer, the District needs to provide the following: (1) an analysis to quantify and compare the consumptive use from the Upper Main Ditch and the consumptive use from the Main Pipeline based on the transfer year hydrology and diversion from the South Fork of American River, (2) all the reports, data, and measurements with acceptable accuracy used in the analysis, (3) flow measurements prior to and after the completion of the Main Pipeline project at key locations, including the outflow of forebay into the Main Pipeline and the inflow to the Reservoir 1 Water Treatment Plant inlet. Such information is critical to quantify the reduction in consumptive use from the Proposed Project and the amount of transferable water both of which are needed to correctly determine the Biological Resources impacts.

EID RESPONSE 2

Biological Resources

Please see EID Response 1. The IS/ND provides adequate data and analysis to support the conclusion that the amount of conserved water available for transfer is up to 740 AF annually and to support the impact analysis conclusions that are based on that transferrable amount.

COMMENT 3: Specific Comments - 4.10 Hydrology and Water Quality

The IS/ND states that the Proposed Project will have less than significant impact on Hydrology and Water Quality. Such potential impacts cannot be evaluated without first confirming the methodology used in determining the amount of water available for transfer is accurate which needs to be supported by data. The conclusion that the Proposed Project does not change the baseline condition above Folsom and that the change in instream flows in the Lower American River would have no discernable effects needs to be supported by the accurate amount of conserved water. Therefore, the IS/ND needs to provide the data to support the projected water conserved to conclude the less than significant impact on Hydrology and Water Quality.

As with the Biological Resources impact analysis, please provide the data and analysis to confirm the amount of water available for transfer necessary to undertake the impact evaluation and re-evaluate these potential impacts. To accurately analyze the Hydrology and Water Quality impacts resulting from this proposed transfer, the District needs to provide the following: (1) an analysis to quantify and compare the consumptive use from the Upper Main Ditch and the consumptive use from the Main Pipeline based on the transfer year hydrology and diversion from the South Fork of American River, (2) all the reports, data, and measurements with acceptable accuracy used in the analysis, (3) flow measurements prior to and after the completion of the Main Pipeline project at key locations, including the outflow of forebay into the Main Pipeline and the inflow to the Reservoir 1 Water Treatment Plant inlet. Such information is critical to quantify the reduction in consumptive use from the Proposed Project and the amount of transferable water both of which are needed to correctly determine the Hydrology and Water Quality impacts.

EID RESPONSE 3

Hydrology and Water Quality

Please see EID Response 1. The IS/ND provides adequate data and analysis to support the conclusion that the amount of conserved water available for transfer is up to 740 AF annually and to support the impact analysis conclusions that are based on that transferrable amount.

ATTACHMENT A

COMMENT LETTERS

State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
North Central Region
1701 Nimbus Road, Suite A
Rancho Cordova, CA 95670-4599
916-358-2900
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

June 4, 2024

Brian Deason
Environmental Resources Supervisor
El Dorado Irrigation District
2890 Mosquito Road
Placerville, CA 95667
bdeason@eid.org

Subject: El Dorado Irrigation District Five-Year Conserved Water Transfer Project
NEGATIVE DECLARATION (ND)
SCH No. 2024050686

Dear Brian Deason:

The California Department of Fish and Wildlife (CDFW) received and reviewed the Notice of Intent to Adopt an ND from El Dorado Irrigation District (EID) for the El Dorado Irrigation District Five-Year Conserved Water Transfer Project (Project) pursuant the California Environmental Quality Act (CEQA) statute and guidelines.[1]

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. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may need to exercise its own regulatory authority under the Fish and Game Code.

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, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (Fish & G. Code, § 1802.) Similarly for purposes of CEQA, CDFW provides, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

[1] CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

CDFW may also act as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

EID plans to transfer up to 740 acre-feet (AF) annually of its pre-1914 water right water to Westland's Water District (WWD). The proposed project includes potential annual transfers of conserved water from 2024 to 2028. In the spring of 2022, EID completed construction of the Upper Main Ditch Piping Project (piping project). The piping project involved converting the earthen unlined Upper Main Ditch that delivered water from El Dorado Forebay to the Reservoir 1 Water Treatment Plant to a piped conveyance (Main Pipeline). The water made available for transfer is water that was previously lost through evaporation and seepage from the Upper Main Ditch and is now conserved through operation of the Main Pipeline.

Under the proposed project, EID's diversions from the South Fork American River (SFAR) at the El Dorado Diversion Dam will not change. The same amount of water will be diverted into the El Dorado Canal and conveyed to the El Dorado Forebay. From Folsom Reservoir, the conserved water would be re-regulated by the U.S. Bureau of Reclamation (Reclamation) for delivery to WWD for use in their service area south of the Delta. The actual transfer quantity of conserved water will depend on hydrologic conditions and consumptive demand patterns leading up to and during the transfer period; however, the quantity will not exceed 740 AF annually between 2024 and 2028.

COMMENTS AND RECOMMENDATIONS

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

COMMENT 1: Reporting, Tracking, and Project Schedule
2.7-2.8 Reporting and Tracking Procedures, pages 11-12

Issue: The ND describes procedures EID proposes to employ in order to report and track water transferred in the proposed project, as well a schedule for the conveyance of water, but does not provide adequate details on tracking and timing.

Recommendation: CDFW recommends EID provide additional detail related to the timing of accounting and tracking, such as whether tracking will occur in real-time or at the end of the diversion season. CDFW also requests additional information related to how results of the Summary Report will be used to inform future transfers and/or project operations.

COMMENT 2: Water Balance and Seepage Loss Estimates
Attachment B: Technical Memorandum, pages 9-20

Issue: The Technical Memorandum outlines the approach used to estimate the amount of Main Ditch seepage losses that would have reached the SFAR and are therefore not included in the volume of water to be transferred. The analysis concludes that the rainfall and snowmelt associated with water year type is a primary factor in the amount of seepage loss reaching the SFAR, and that water year type provides a reasonable means of estimating seepage loss under future transfer scenarios.

Recommendation: CDFW appreciates the technical analysis performed to estimate seepage losses. CDFW is curious as to whether EID has explored carryover effects of consecutive wet or dry years on estimated seepage loss percentages; for example, if three or more wet years occur consecutively, does 33% remain an appropriate seepage loss estimate? CDFW recommends exploring potential effects of carryover groundwater storage as a result of water year types, or accumulated deficits resulting from consecutive dry or critical years, in order to inform and potentially refine seepage loss estimates. Additionally, CDFW recommends updating this analysis with data from water year 2021, as only 10 years of data were used to determine seepage loss estimates.

COMMENT 3: Additional Information Related to Quantity of Conserved Water
2.0 Project Description* and *Attachment B: Technical Memorandum

Issue: The Project Description and Attachments included in the ND provide details related to the quantity of conserved water that will ultimately be made available for transfer as part of the proposed Project. However, further information is needed to adequately assess the quantity of conserved water available.

Recommendation: CDFW recommends EID revisit the 2016 water loss analysis and critically assess whether “discussions with EID staff” and “review of mathematical models” provide sufficient information to determine estimated losses outside of the range of observed flows. Should these estimates be deemed insufficient and removed from the analysis, CDFW recommends including data from water year 2021 to the dataset.

CDFW also recommends EID make available the previous record of consumptive use or stored water under the water right proposed for transfer to confirm the quantity of conserved, transferable water. The calculations and the record of previous uses under water right S009034 determine water eligible for transfer and may affect the availability of water for downstream users, including public trust resources such as fish and wildlife, and ultimately determine if the conserved water transfer will avoid potential injury to downstream beneficial uses and public trust resources (Wat. Code, § 1706).

COMMENT 4: Impacts to Folsom Reservoir Coldwater Pool
4.4 Biological Resources, pages 24-27

Issue: The coldwater pool in Folsom Reservoir provides habitat for a variety of coldwater fish species, including rainbow trout (*Oncorhynchus mykiss*) and Chinook salmon (*Oncorhynchus tshawytscha*). In addition, the coldwater pool provides a significant source

of cold water in the summer and early fall in the Lower American River for fall-run Chinook salmon and the federally threatened Central Valley steelhead (*Oncorhynchus mykiss*), and Reclamation manages releases from the coldwater pool for the protection of these species. The ND states that the proposed project will not result in any changes in reservoir water temperatures or subsequent changes to volume of the coldwater pool. It is unclear how EID made this determination.

Recommendation: In order to fully evaluate any potential impacts of the proposed Project to the volume of the coldwater pool and coldwater releases to the Lower American River, CDFW recommends EID consult with Reclamation and conduct a temperature analysis. The ND states that transfer water may either remain instream in the SFAR until Folsom Reservoir, or it may be diverted into the El Dorado Canal and Forebay and returned to the SFAR after non-consumptive power generation. The ND should consider whether the transfer will lead to more water from the El Dorado Forebay entering Folsom Reservoir and provide information on the typical water temperatures of the Forebay and SFAR during the transfer period.

The temperature analysis should verify that the volume of coldwater habitat available in the reservoir and for downstream releases will not change as a result of this project, and that Reclamation will continue to be able to meet temperature requirements in the Lower American River.

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 (CNDDB). The CNNDB field survey form can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Submitting-Data. The completed form can be submitted online or mailed electronically to CNDDB at the following email address: CNDDB@wildlife.ca.gov.

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.)

CONCLUSION

Pursuant to Public Resources Code § 21092 and § 21092.2, CDFW requests written notification of proposed actions and pending decisions regarding the proposed project. Written notifications shall be directed to: California Department of Fish and Wildlife North

Central Region, 1701 Nimbus Road, Rancho Cordova, CA 95670 or emailed to R2CEQA@wildlife.ca.gov.

CDFW appreciates the opportunity to comment on the ND for the El Dorado Irrigation District Five-Year Conserved Water Transfer Project to assist EID 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. Questions regarding this letter or further coordination should be directed to Alyssa Obester, Senior Environmental Scientist (Specialist) at alyssa.obester@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Morgan Kilgour
C3A86764C0AD4F6...

Morgan Kilgour
Regional Manager

ec: Briana Seapy, Senior Environmental Scientist (Supervisor)
Alyssa Obester, Senior Environmental Scientist (Specialist)
Bridget Gibbons, Environmental Scientist
Department of Fish and Wildlife

Office of Planning and Research, State Clearinghouse, Sacramento

Delta Stewardship Council
A CALIFORNIA STATE AGENCY

715 P Street, 15-300
Sacramento, CA 95814

916.445.5511
DELTACOUNCIL.CA.GOV

June 6, 2024

Brian Deason

El Dorado Irrigation District

2890 Mosquito Road

Placerville, CA 95667

Delivered via email: ConservedWaterTransfer@eid.org

RE: Comments on the Initial Study/Negative Declaration for El Dorado Irrigation District's Five-Year Conserved Water Transfer, SCH #2024050686

Dear Brian Dearson:

Thank you for the opportunity to review and comment on the Initial Study/Negative Declaration (IS/ND) for El Dorado Irrigation District's (EID) Five-Year Conserved Water Transfer (transfer). The Delta Stewardship Council (Council) recognizes the objective of the Project, as described by the IS/ND, is for EID to transfer up to 740 acre-feet (AF) annually of its pre-1914 water right to Westlands Water District (WWD). The water that will be made available for transfer was water that was previously lost through evaporation and seepage from an earthen and unlined main ditch that is now conserved as a result of new piped conveyance.

The Council is an independent state agency established by the Sacramento-San Joaquin Delta Reform Act of 2009, codified in Division 35 of the California Water Code, sections 85000-85350 (Delta Reform Act). The Delta Reform Act charges the Council with furthering California's coequal goals of providing a more reliable water supply and protecting, restoring, and enhancing the Sacramento-San Joaquin River Delta (Delta) ecosystem. (Water Code, § 85054.) The Delta Reform Act further states that the coequal goals are to be achieved in a manner that protects and enhances

the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place. The Council is charged with furthering California's coequal goals for the Delta through the adoption and implementation of the Delta Plan. (Wat. Code, § 85300.)

The Delta Plan contains regulatory policies, which are set forth in California Code of Regulations, Title 23, sections 5001-5015. Through the Delta Reform Act, the Council was granted specific regulatory and appellate authority over certain actions of State or local public agencies that take place in whole or in part in the Delta. (Wat. Code, §§ 85210, 85225.30.) A state or local agency that proposes to undertake a covered action is required to prepare a written Certification of Consistency with detailed findings as to whether the covered action is consistent with the Delta Plan and submit that certification to the Council prior to implementation of the project. (Wat. Code, § 85225.)

COVERED ACTION DETERMINATION AND CERTIFICATION OF CONSISTENCY WITH THE DELTA PLAN

Based on the project location and scope, as provided in the IS/ND, the project appears to meet the definition of a covered action. Water Code section 85057.5(a) states that a covered action is a plan, program, or project, as defined pursuant to Section 21065 of the Public Resources Code, that meets all of the following conditions:

> *(1) Will occur, in whole or in part, within the boundaries of the Delta or Suisun Marsh.* The project occurs within the boundaries of the Delta because the project proposes to transfer water through the Delta on an annual basis. This water movement is not part of routine State Water Project (SWP) or Central Valley Project (CVP) operations as the water being transferred is not part of the water rights held by the projects.
>
> *(2) Will be carried out, approved, or funded by a State or a local public agency.* EID, a local public agency, is proposing a multi-year water transfer.
>
> *(3) Is covered by one of the provisions of the Delta Plan.* Provisions of the Delta Plan that may apply to this project are detailed below.
>
> *(4) Will have a significant impact on achievement of one or both of the coequal goals or the implementation of government-sponsored flood control programs to reduce risks to people, property, and State*

> *interests in the Delta.* This project may have a significant impact on the coequal goals to provide a reliable water supply for California and to protect, restore, and enhance the Delta ecosystem.

The State or local agency approving, funding, or carrying out the project must determine if that project is a covered action and, if so, file a Certification of Consistency with the Council prior to project implementation. (Wat. Code, § 85225; Cal. Code Regs., tit. 23, § 5001(j)(3).)

The following section describes the Delta Plan regulatory policies that may apply to the project based on the available information in the IS/ND.

General Policy 1: Detailed Findings to Establish Consistency with the Delta Plan

Delta Plan Policy **G P1** (Cal. Code Regs., tit. 23, § 5002) specifies what must be addressed in a Certification of Consistency for a project that is a covered action. The following is a subset of policy requirements which a project shall fulfill to be considered as consistent with the Delta Plan:

Mitigation Measures

Delta Plan Policy **G P1(b)(2)** (Cal. Code Regs., tit. 23, § 5002(b)(2)) requires covered actions not exempt from the California Environmental Quality Act (CEQA) must include all applicable feasible mitigation measures adopted and incorporated into the Delta Plan as amended April 26, 2018 (unless the measures are within the exclusive jurisdiction of an agency other than the agency that files the Certification of Consistency), or substitute mitigation measures that the agency finds are equally or more effective. These mitigation measures are identified in Delta Plan Appendix O and are available at: https://deltacouncil.ca.gov/pdf/delta-plan/2018-appendix-o-mitigation-monitoring-and-reporting-program.pdf.

Although the IS/ND did not identify any significant impacts requiring mitigation, EID is encouraged to review Delta Plan Appendix O to determine if there are applicable mitigation measures that should be adopted and included in EID's environmental analysis.

Best Available Science

Delta Plan Policy **G P1(b)(3)** (Cal. Code Regs., tit. 23, § 5002(b)(3)) states that actions subject to Delta Plan regulations must document the use of best available science as relevant to the purpose and nature of the project. The Delta Plan defines the best available science as "the best scientific

information and data for informing management and policy decisions." (Cal. Code Regs, tit. 23, § 5001 (f).) Best available science is also required to be consistent with the guidelines and criteria in Appendix 1A of the Delta Plan (https://deltacouncil.ca.gov/pdf/delta-plan/2015-appendix-1a.pdf). A future certification of consistency for the project should describe how best available science was applied in project evaluations and decision-making.

Adaptive Management

Delta Plan Policy **G P1(b)(4)** (Cal. Code Regs., tit. 23, § 5002(b)(4)) requires that ecosystem restoration and water management covered actions include adequate provisions for continued implementation of adaptive management, appropriate to the scope of the action. This requirement is satisfied through a) the development of an adaptive management plan that is consistent with the framework described in Appendix 1 B of the Delta Plan (https://deltacouncil.ca.gov/pdf/delta-plan/2015-appendix-1b.pdf), and b) documentation of adequate resources to implement the proposed adaptive management plan.

The proposed EID transfer is a water management project, and as such, a future certification of consistency for the project should include an adaptive management plan that is consistent with Appendix 1 B requirements.

Water Resources Policy 1: Reduce Reliance on the Delta through Improved Regional Water Self-Reliance

Delta Plan Policy **WR P1** (Cal. Code Regs, tit. 23, § 5003) provides that "[w]ater shall not be exported from, transferred through, or used in the Delta" if *all* three factors – set forth in subdivisions (a)(1), (a)(2), and (a)(3) – apply. Subdivision (a)(1) provides that a project may not proceed if one or more water suppliers that would receive water as a result of the project have failed to adequately contribute to reduced reliance on the Delta and improved regional self-reliance consistent with the requirements of subdivision (c)(1). Subdivision (a)(2) specifies that the project may not proceed if the failure to reduce reliance has significantly caused the need for the export, transfer, or use. Subdivision (a)(3) specifies that the project may not proceed if the export, transfer, or use would have a significant adverse environmental impact in the Delta.

The Project proposes to transfer water through the Delta on an annual basis from 2024 to 2028. As part of a future certification of consistency for the project, EID (and/or WWD) should describe how WWD fulfills the requirements set forth in subdivision (c)(1) and provide quantitative data in support. (see Cal. Code Regs, tit.

23, § 5003(c)(1).) EID should further address the conditions of subdivisions (a)(2) and (a)(3). The certification of consistency should be supported by substantial evidence in the record that one or more of the conditions specified in subdivisions (a)(1), (a)(2), and (a)(3) do not apply to the project.

Water Resources Policy 2: Transparency in Water Contracting

Delta Plan Policy **WR P2** (Cal. Code Regs., tit. 23, § 5004) requires the contracting process for water from the SWP and/or the CVP be done in a publicly transparent manner consistent with applicable policies of the DWR and the Bureau of Reclamation (Reclamation). In the certification of consistency EID should document the planned contracting process and describe how EID will transparently conduct contracting business with the public.

Ecosystem Restoration Policy 1: Delta Flow Objectives

Delta Plan Policy **ER P1** (Cal. Code Regs., tit. 23, § 5005) requires the SWRCB's Bay Delta Water Quality Control Plan flow objectives to be used to determine consistency with the Delta Plan. The project proposes to transfer water annually through the Delta from 2024 to 2028. In the certification of consistency EID should analyze and document how the project may impact or alter Delta flows otherwise needed to meet the applicable Bay Delta Water Quality Control Plan flow objectives.

CLOSING COMMENTS

As EID proceeds with implementing the transfer, the Council invites EID to engage Council staff in early consultation (before submittal of a Certification of Consistency) to discuss the transfer. More information on covered actions, early consultation, and the certification process can be found on the Council website, https://coveredactions.deltacouncil.ca.gov. Council staff are available to discuss issues outlined in this letter as the EID proceeds in the next stages of its project and approval processes.

If you have any questions regarding the contents of this letter, please contact James Edwards at James.Edwards@deltacouncil.ca.gov.

Sincerely,

Jeff Henderson
Deputy Executive Officer

STATE OF CALIFORNIA – CALIFORNIA NATURAL RESOURCES AGENCY **GAVIN NEWSOM**, *Governor*

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6/13/2024

Brian Deason
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Subject: The El Dorado Irrigation District Five-Year Conserved Water Transfer Project for 2024-2028 Initial Study/Negative Declaration State Clearinghouse #2024050686

Dear Mr. Deason,

The California Department of Water Resources (DWR) has reviewed the Initial Study/Negative Declaration (IS/ND) for El Dorado Irrigation District's (District) proposed Five-Year Conserved Water Transfer Project for 2024–2028. DWR has the following comments.

Project Description

The proposed Five-Year Conserved Water Transfer Project for 2024–2028 (Proposed Project) is the transfer of newly conserved water to Westland's Water District. The water conservation was created by the District's recent pipeline project completed in the spring of 2022 which converted the Upper Main Ditch from an open unlined ditch to a piped conveyance (Main Pipeline). The District estimates that the pipeline project resulted in a conservation of up to 740 acre-feet (AF) of water annually that would have been lost through seepage and evaporation from the Upper Main Ditch. Under the Proposed Project, the conserved water would either remain instream in the South Fork of American River or be used for non-consumptive hydropower production and then returned into the South Fork of American River, both routes of water would flow into Folsom Reservoir and would be conveyed to Westland's Water District. The Proposed Project would transfer no more than 740 AF of the District's pre-1914 water right annually from 2024–2028 during the months of July through September.

Comments

General Comment

The IS/ND needs to provide adequate data and analysis to support the conclusion that the water conserved and available for transfer is projected to be up to 740 AF

per year since the impact analyses in this environmental document are based on the projected transferable amount.

Water Code Section 1011 defines “water conservation” as “the use of less water to accomplish the same purpose or purposes of use allowed under the existing appropriative right.” Furthermore, Water Code Section 1011(b) establishes that a water rights holder who reduces water use as a result of conserving water is authorized to use, sell, exchange or otherwise transfer such water. However, Water Code Section 1706 allows the Proposed Project to move forward only if others are not injured by the change. Since Water Code Section 1706 requires the Proposed Project to have no injury to others, and CEQA requires the analysis of potential impacts, it is imperative that the IS/ND provides the information which forms the basis of the conclusion that the 740 AF amount of transferable water is based on a *reduction in use*. IS/ND reviewers need to be able to verify that 740 AF is the accurate amount of conserved water available for transfer pursuant to Water Code Section 1011(b).

The IS/ND potentially overestimates the amount of transfer water made available through conservation, which may result in inaccurate impact conclusions in this IS/ND and in injury to others, including downstream legal water users and biological resources, and may not comply with Water Code Section 1706.

The amount of transferable water should be calculated as the consumptive use of the Upper Main Ditch minus consumptive use of the Main Pipeline. This IS/ND does not provide any data, measurements, or analysis to quantify consumptive use for the Main Pipeline. The Upper Main Ditch total conveyance loss is estimated based on a look-up table that depends on season and the flow being conveyed. The look-up table was derived from a correlation that is based only on 2016 and 2017 data (Tully & Young Technical Memo, page 4). When the correlation is plotted and compared to other years of data, the flow measurements show significant deviation from the curve (Tully & Young Technical Memo, page 7). Furthermore, the IS/ND estimates that the surface water evaporation loss of the Upper Main Ditch is eight percent of the total conveyance loss, but it does not provide any supporting analysis based on surface area estimates of the Upper Main Ditch.

Specific Comments

4.4 Biological Resources

The lack of data to support the projected water conserved in the IS/ND may result in over-accounting of the water available for transfer and the transfer of water which is intended for downstream users, including biological resources. Without the necessary data, an impact analysis for these potential impacts cannot be accurately assessed. Biological resources downstream of the El Dorado Forebay entering Folsom Reservoir

and into the Lower American River that may be impacted include riparian habitat, sensitive natural communities, and habitat conservation plan areas. Without data to support the accuracy of the conserved water eligible for transfer, the Proposed Project has the potential to impact these downstream biological resources by transferring water that would have otherwise been available to benefited downstream biological resources. Therefore, the IS/ND needs to provide the data to support the projected water conserved to conclude the less than significant impact on Biological Resources.

Please provide the data and analysis to confirm the amount of water available for transfer necessary to undertake the impact evaluation and re-evaluate these potential impacts. To accurately analyze the Biological Resources impacts resulting from this proposed transfer, the District needs to provide the following: (1) an analysis to quantify and compare the consumptive use from the Upper Main Ditch and the consumptive use from the Main Pipeline based on the transfer year hydrology and diversion from the South Fork of American River, (2) all the reports, data, and measurements with acceptable accuracy used in the analysis, (3) flow measurements prior to and after the completion of the Main Pipeline project at key locations, including the outflow of forebay into the Main Pipeline and the inflow to the Reservoir 1 Water Treatment Plant inlet. Such information is critical to quantify the reduction in consumptive use from the Proposed Project and the amount of transferable water both of which are needed to correctly determine the Biological Resources impacts.

4.10 Hydrology and Water Quality

The IS/ND states that the Proposed Project will have less than significant impact on Hydrology and Water Quality. Such potential impacts cannot be evaluated without first confirming the methodology used in determining the amount of water available for transfer is accurate which needs to be supported by data. The conclusion that the Proposed Project does not change the baseline condition above Folsom and that the change in instream flows in the Lower American River would have no discernable effects needs to be supported by the accurate amount of conserved water. Therefore, the IS/ND needs to provide the data to support the projected water conserved to conclude the less than significant impact on Hydrology and Water Quality.

As with the Biological Resources impact analysis, please provide the data and analysis to confirm the amount of water available for transfer necessary to undertake the impact evaluation and re-evaluate these potential impacts. To accurately analyze the Hydrology and Water Quality impacts resulting from this proposed transfer, the District needs to provide the following: (1) an analysis to quantify and compare the consumptive use from the Upper Main Ditch and the consumptive use from the Main Pipeline based on the transfer year hydrology and diversion from the South Fork of American River, (2) all the reports, data, and measurements with acceptable accuracy used in the analysis, (3) flow measurements prior to and after the completion of the Main Pipeline project at

key locations, including the outflow of forebay into the Main Pipeline and the inflow to the Reservoir 1 Water Treatment Plant inlet. Such information is critical to quantify the reduction in consumptive use from the Proposed Project and the amount of transferable water both of which are needed to correctly determine the Hydrology and Water Quality impacts.

Thank you for this opportunity to comment on the Proposed Project.

Sincerely,

nancy finch

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