



State Water Resources Control Board

December 20, 2024

Mr. Doug Venable
Environmental Review Analyst
El Dorado Irrigation District
2890 Mosquito Road
Placerville, CA 95667
Sent via email: SilverLakeDam@eid.org

**Silver Lake Dam Replacement Project
Federal Energy Regulatory Commission (FERC) Project No. 184
Amador County
Silver Fork American River, South Fork American River**

**COMMENTS ON EL DORADO IRRIGATION DISTRICT'S NOTICE OF
PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT AND PUBLIC
SCOPING MEETING FOR THE SILVER LAKE DAM REPLACEMENT PROJECT**

Dear Mr. Venable:

On November 15, 2024, El Dorado Irrigation District (EID) issued a *Notice of Preparation of a Draft Environmental Impact Report and Public Scoping Meeting for the Silver Lake Dam Replacement Project* (NOP). The Silver Lake Dam Replacement Project (Project) involves: (1) removing and replacing Silver Lake Dam, spillway, and associated facilities; (2) raising an approximately 200-foot section of Kit Carson Road to help avoid the potential for overtopping during extreme flood events; and (3) installing a new underground power service line and relocating existing buried telecommunications lines. Silver Lake Dam is located near Kirkwood, CA, in Amador County.

State Water Board staff appreciate the opportunity to provide comments on the NOP and look forward to working with EID and other interested parties on completion of the CEQA process for the Project. Please see the Attachment for comments on EID's NOP.

If you have questions regarding this letter, please contact Jessica Dyke, by email at Jessica.Dyke@waterboards.ca.gov. Written correspondence should be mailed to:

State Water Resources Control Board
Division of Water Rights – Water Quality Certification Program
Attn: Jessica Dyke
P.O. Box 2000
Sacramento, CA 95812-2000

E. JOAQUIN ESQUIVEL, CHAIR | ERIC OPPENHEIMER, EXECUTIVE DIRECTOR

Sincerely,



Jessica Dyke
Environmental Scientist
Water Quality Certification Program
Division of Water Rights

Attachment: Comments on El Dorado Irrigation District's November 15, 2024, Notice of Preparation for the Silver Lake Dam Replacement Project

ec (with attachment):

Debbie-Anne A. Reese, Secretary
Federal Energy Regulatory Commission
Via e-filing to FERC Dockets for P-184

California State Clearinghouse
Office of Planning and Research
Via posting to CEQAnet for SCH Number 2024110527

Brian Deason, Environmental Resources Supervisor
El Dorado Irrigation District
Email: bdeason@eid.org

Randy Olsen, Sacramento District Chief of Operations
United States Army Corps of Engineers
Email: randy.p.olsen@usace.army.mil

Stephanie Tadlock, Senior Environmental Scientist
Central Valley Regional Water Quality Control Board
Email: stephanie.tadlock@waterboards.ca.gov

Patrick Pulupa, Executive Officer
Central Valley Regional Water Quality Control Board
Email: patrick.pulupa@waterboards.ca.gov

Comments on El Dorado Irrigation District's November 15, 2024, Notice of Preparation for the Silver Lake Dam Replacement Project

State Water Resources Control Board (State Water Board) staff are providing the following comments in response to El Dorado Irrigation District's (EID's) November 15, 2024, *Notice of Preparation of a Draft Environmental Impact Report and Public Scoping Meeting for the Silver Lake Dam Replacement Project* (NOP).

- 1. Notice of Completion:** State Water Board staff note that EID included the State Water Board's Division of Water Quality as a reviewing agency on the *Notice of Completion & Environmental Document Transmittal* filed with the Office of Planning and Research as posted on the CEQAnet Web Portal. State Water Board staff request that EID list the State Water Board's Division of Water Rights as a responsible and/or reviewing agency in future California Environmental Quality Act (CEQA) forms and filings related to the Project.

Additionally, State Water Board staff request that EID add the following individuals to the Project's CEQA distribution list:

Jessica Dyke Environmental Scientist State Water Resources Control Board Division of Water Rights Jessica.Dyke@waterboards.ca.gov	Adam Cohen Senior Environmental Scientist State Water Resources Control Board Division of Water Rights Adam.Cohen@waterboards.ca.gov
---	--

- 2. Water Quality Certification Authority:** Section 401 of the federal Clean Water Act (Section 401) requires any applicant for a federal license or permit for an activity that may result in any discharge to navigable waters to obtain water quality certification (certification) from the State that the activity will comply with water quality requirements. (33 U.S.C. § 1341(a)(1), (d).) Certifying authorities may issue certifications with conditions implementing Clean Water Act requirements, including the requirements of section 303 of the Clean Water Act for water quality standards and implementation plans, or to implement "any other appropriate requirement of State law." (*Id.*, § 1341(d).) Section 401 further provides that certification conditions shall become conditions of any federal license or permit for the project. (*Ibid.*) If a certifying authority denies certification, the federal agency cannot issue a license or permit approving the project. (*Id.*, § 1341(a)(1).) In the NOP, EID indicates that to implement the Project, it will seek a FERC license amendment for the El Dorado Hydroelectric Project as well as an associated certification. As the Project involves a FERC license amendment, the State Water Board, Division of Water Rights is the entity that will consider EID's future certification action. State Water Board staff request that EID clarify its timeline for when it anticipates it will apply for a FERC license amendment and an associated certification.
- 3. Water Quality Certification for the El Dorado Hydroelectric Project:** On April 4, 2006, the State Water Board issued a certification for the El Dorado Hydroelectric Project (FERC No. 184) license. Although the certification has a different project scope (relicensing for the El Dorado Hydroelectric Project

instead of the Silver Lake Dam Replacement Project), the certification may still be a helpful resource for EID in identifying potential requirements that should be analyzed as part of EID's CEQA analysis for the Silver Lake Dam Replacement Project.

- 4. Responsible Agency Recommendations:** The CEQA Guidelines define a Responsible Agency as “a public agency which proposes to carry out or approve a project, for which a lead agency is preparing or has prepared an [Environmental Impact Report (EIR)] or negative declaration. For the purposes of CEQA, the term ‘[R]esponsible [A]gency’ includes all public agencies other than the lead agency which have discretionary approval power over the project.” (Cal. Code Regs., tit. 14, § 15381.) For the Project, the State Water Board is a Responsible Agency.

As a Responsible Agency, in accordance with the CEQA Guidelines (Cal. Code Regs., tit. 14, §§ 15096, subd. (b)(2), 15082, subd. (b)), and per EID's request in its NOP, the State Water Board is identifying the below environmental information relevant to its statutory responsibilities that should be included in the Draft EIR:

- The Final Environmental Impact Statement¹ for FERC Project No. 184 states that fish species present in the Silver Fork include rainbow trout, brown trout, Sacramento sucker, and speckled dace. The October 1998 fish survey in Silver Lake found brown trout, rainbow trout, lake trout, and Tui chub. State Water Board staff recommend that EID use the California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database (CNDDDB) to obtain an updated inventory of potentially present species that may be impacted by variances to minimum instream flows and lake levels. Mitigation measures should be included to address potential impacts to cold water habitat in Silver Lake and Silver Fork American River downstream of the dam.
- The EIR should analyze potential environmental impacts associated with erosion, sedimentation, and soil movement during dam removal and construction. Mitigation measures should be included, as appropriate, to reduce potential impacts to a less than significant level.
- Special-status species listed as threatened or endangered under the California Endangered Species Act (ESA), federal ESA, and/or Species of Special Concern designated by CDFW may exist in or near the Silver Lake Dam Replacement Project area. The EIR should analyze the potential occurrence of listed species as well as potential Project impacts to listed species. Mitigation measures should be included to address potential impacts to these species, such as the Sierra Nevada yellow-legged frog (*Rana sierrae*).

¹ The FEIS is available at:

https://www.waterboards.ca.gov/waterrights/water_issues/programs/water_quality_cert/docs/eldorado_hydro_ferc184/feis_master_sent2ferc.pdf

- The Project is planned to be constructed within 18 months and is tentatively scheduled to begin in the winter of 2027. The EIR should analyze how construction activities and related operation variances will affect management of annual spring peak runoff and pulse flows required by the FERC license for the El Dorado Hydroelectric Project.

5. Water Quality Certification Conditions: The 2006 water quality certification² includes minimum instream flow and lake level requirements, which may require an amendment for the Project to be implemented. The Project as described in the NOP states that the water level must be “maintained at a level to enable safe construction of the dam, while still providing a limited pool for recreation use during the late spring and summer months and for maintaining minimum instream flows throughout the duration of construction.” This elevation is identified as 7,249 feet, or a stage height of approximately 6.5 feet. The 2006 water quality certification requires that the Silver Lake stage height be no less than 12.0 feet as of September 30, and 7.4 feet as of November 1 of each year.

² The certification is available at:

https://www.waterboards.ca.gov/waterrights/water_issues/programs/water_quality_cert/docs/eldorado_hydro_ferc184/eid_wqc_2006.pdf