

Memorandum

Delta Diablo Sanitation District (DDSD) Recycled Water System Expansion Project
SCH Number: 2013092003

Subject: Final Initial Study / Mitigated Negative Declaration

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Final Mitigated Negative Declaration for the Recycled Water System Expansion Project

1.1 Public and Agency Comments

The Public Draft Initial Study/Mitigated Negative Declaration (IS/MND) was published on September 3, 2013. The 30-day public comment period ended on October 2, 2013. During this time, written comments were received from the following agencies/organizations:

- State of California Governor's Office of Planning and Research, State Clearinghouse and Planning Unit (State Clearinghouse);
- State Water Resources Control Board; and
- Chevron Environmental Management Company (Chevron).

Each of the comment letters received is addressed below.

1.1.1 State Clearinghouse

The State Clearinghouse documented that DDSD has complied with the review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. The letter contained no substantive comments on the IS/MND, but did transmit comments from the State Water Resources Control Board, which are addressed below.

1.1.2 State Water Resources Control Board

The State Water Resources Control Board (SWRCB) provided information on environmental documentation required to obtain Clean Water State Revolving Fund (CWSRF) funds. DDSD is aware of the CEQA-Plus requirements discussed in the letter. Because DDSD is also pursuing Title XVI funding from the U.S. Bureau of Reclamation (USBR), the environmental document was prepared as a joint CEQA/NEPA document, and thus meets all of the requirements of federal environmental laws and regulations. USBR has consulted with U.S. Fish and Wildlife Service, and documentation of that consultation is included in Appendix D of the IS/MND. A cultural resources report has been prepared by a consultant meeting the Secretary of the Interior's Professional Qualifications Standards, and DDSD will work with USBR to complete Section 106 consultation during the design phase. An air quality analysis was completed, and page 3-11 of the IS/MND documents conformity with the Federal Clean Air Act. The results of the air quality analysis are included in Appendix A of the IS/MND. The Project is not in the coastal zone and, as noted on page 3-8 of the IS/MND, the Project is not located in farmland. As documented on page 3-20 of the IS/MND, no wetlands would be affected by the Project, and a 404 Permit from the U.S. Army Corps of Engineers would not be required. Because construction will take place in an urbanized area, DDSD does not expect that construction would affect migratory birds, but has included

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additional mitigation to further document that fact. Please refer to the staff-initiated change to Mitigation Measure BIO-10, which is presented below. The 100-year Flood Zone is identified in Figure 3-4 of the IS/MND. There are no wild and scenic rivers in the project area.

The comment asks for additional information regarding construction of the radio tower that would transmit water levels in the tank to pump stations and the control center. The radio tower is described on page 2-9 of the IS/MND. As noted there, the tower is about the same height as the tank (30 feet), and because the tower would be constructed immediately next to the tank (the tank would support the tower), it is not expected to have any additional impacts on biological resources. Section 3.7 already identifies all impacts to biological resources.

The IS/MND has also identified air quality impacts of the Project in Section 3.6 of the document. As noted there, emissions were estimated for construction of the Near-Term Project, which is the only element of the Project that has been defined at this time. As stated on page 3-11 of the IS/MND the Project would conform with the Federal Clean Air Act, as emissions are below minimum thresholds. Construction of the Buildout Project would not overlap with the construction of the Near-Term Project, and DDSD is only expecting to request funding for the Near-Term Project at this time. Additional analysis would be conducted, as needed, if funding is requested in the future for any elements of the Buildout Project.

Information provided by SWRCB in their comment letter is appreciated. DDSD is familiar with environmental forms required by SWRCB including the *California Environmental Quality Act (CEQA) Checklist for the Applicant and Evaluation Form for Environmental Review and Federal Coordination*. DDSD will submit all required information to SWRCB when a decision is made to move forward to obtain CWSRF funding. Information provided by SWRCB is appreciated.

1.1.3 Chevron

The comment from Chevron provided information on the location of abandoned pipeline facilities in the vicinity of the Project area, and does not include any substantive comments on the document that would require revisions to the IS/MND.

1.2 Summary

The purpose of this memorandum is to document that no substantive comments on the document were received during the comment period. The comments above do not raise any new significant environmental issues, and do not require revision of the Draft IS/MND.

1.2.1 Staff-Initiated Text Change

The District has revised one of its mitigation measures to clarify that preconstruction surveys for nesting birds would be included as part of Mitigation Measure BIO-1. This change is a voluntary change by the District. The biological resources analysis provided in the IS/MND is adequate and the level of mitigation proposed is appropriate. The inclusion of additional text in the mitigation measure is not in response to any new finding of significant impact, is not required by CEQA, and does not create new significant environmental impacts. Although impacts to nesting birds are expected to be less than significant due to the urban nature of the proposed Project, the District has chosen to commit to preconstruction surveys to document that the Project does not adversely affect nesting birds.

The revised mitigation is shown below. New text is underlined.

Mitigation Measure BIO-10: Burrowing Owl and Nesting Migratory Bird Avoidance (Near-Term and Buildout Projects). Within 30 days prior to the start of project construction, preconstruction surveys for burrowing owls shall be conducted in areas where construction would occur in annual grassland; surveys for nesting migratory birds and raptors shall be conducted where construction would occur between March 1 and August 31 within 250 feet of trees. If ground-disturbing activities are delayed or suspended for more than 30 days after the survey, the site shall be resurveyed.

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Occupied burrows shall not be disturbed during the breeding season (February 1 through August 31) or a method developed in coordination with CDFW to minimize disturbance would be implemented. A 160-foot buffer shall be incorporated around occupied burrows during the non-breeding season (September 1 through January 31), and a 250-foot buffer would be incorporated around occupied burrows during the breeding season. Ground-disturbing activities shall not occur within the buffers.

If occupied burrows are documented and the recommended buffer distances cannot be adequately incorporated, passive owl relocation techniques shall be implemented in coordination with CDFW.

If the biologist detects no active nesting or breeding activity by migratory birds or raptors, then work may proceed without restrictions. If migratory bird and/or active raptor nests are identified within 250 feet of a facility site a qualified biologist shall determine whether or not construction activities might impact the active nest or disrupt reproductive behavior. If it is determined that construction would not affect an active nest or disrupt breeding behavior, construction may proceed without any restriction. If the qualified biologist determines that construction activities would likely disrupt raptor breeding or passerine nesting activities, then the DDSD shall establish a no-disturbance buffer around the nesting location to avoid disturbance or destruction of the nest site until after the breeding season or after a wildlife biologist determines that the young have fledged (usually late June through mid-July). The extent of these buffers would be determined by a wildlife biologist in consultation with CDFW and would depend on the species' sensitivity to disturbance (which can vary among species); the level of noise or construction disturbance; line of sight between the nest and the disturbance; ambient levels of noise and other disturbances; and consideration of other topographical or artificial barriers. The wildlife biologist shall analyze and use these factors to assist the CDFW in making an appropriate decision on buffer distances.

This memorandum, which shows the change in the mitigation measure, in combination with the Public Draft IS/MND, constitute the Final IS/MND.