

## **ATTACHMENT NO. 2**

### **Nipomo Community Services District Waterline Intertie Project Santa Barbara Flood Control and Water Conservation District CEQA Findings May 2013**

#### **1.0 CEQA FINDINGS**

#### **1.1 FINDINGS PURSUANT TO PUBLIC RESOURCES CODE SECTION 21081 AND THE CEQA GUIDELINES SECTIONS 15090 AD 15091:**

The Nipomo Community Services District (NCSD) Waterline Intertie Project is a NCSD project with the NCSD acting as Lead Agency under CEQA and the Santa Barbara Flood Control and Water Conservation District (District) acting as a Responsible Agency under CEQA. As the Lead Agency, the NCSD certified and adopted the Final Environmental Impact Report (FEIR), State Clearinghouse Number 2005071114, for the Waterline Intertie Project on April 22, 2009 and the Addendum Environmental Impact Report (AEIR) on April 25, 2012. The NCSD has also adopted Findings related to mitigation measures and project alternatives and a Statement of Overriding Considerations.

A portion of the project will require installation of a waterline through the Santa Maria River Levee (a distance of approximately 240 linear feet) on property which is owned by the District. The District has entered into a License Agreement with the NCSD which allows the construction and future maintenance of the the portion of the project within District-owned property. As such, the District becomes a Responsible Agency under CEQA. The District will not physically implement any portions of the project.

As a Responsible Agency, The Board of Director's role is limited as follows:

"A responsible agency has responsibility for mitigating or avoiding only the direct or indirect environmental effects of those parts of the project which it decides to carryout, finance or approve." {CEQA Guidelines § 15096(g)(1)}.

The Board has reviewed each of the mitigation measures identified in the FEIR and AEIR that may pertain to the District's jurisdiction of this project. The AEIR does not introduce any new mitigation measures to the project that are not already included in the FEIR. Many of the impacts and associated mitigation measures in the FEIR and AEIR apply to construction areas and project components outside of the District's jurisdiction and therefore will not apply to County approved portions of the proposed project and are not included in this document.

For a full discussion of findings related to the entire project and the related Statement of Overriding Considerations approved by the NCSD in 2009 and 2012, refer to the document titled: Findings of Fact and Statement of Overriding Considerations Regarding the Final Environmental Impact Report (State Clearinghouse Number 2005071114) For the NSCD Waterline Intertie, and the Nipomo Community Services District Resolution No. 2012-1254. These documents are located at the Water

Resources Division, Santa Barbara County Public Works, 123 E. Anapamu St, Santa Barbara CA 93101.

#### A. CONSIDERATION OF THE EIR

The Final EIR and AEIR for the NCSD Waterline Intertie Project were presented to the Board of Directors, acting as the Responsible Agency, and all voting members of the Board have reviewed and considered the EIR and AEIR prior to approving this proposal. The Final EIR and AEIR reflect the independent judgment of the Board of Directors and is adequate for this proposal.

#### B. FULL DISCLOSURE

The Board of Directors finds and accepts that the Final EIR and AEIR constitute a complete, accurate, adequate and good faith effort at full disclosure under CEQA. The Board of Directors further finds and accepts that the Final EIR and AEIR have been completed in compliance with CEQA.

#### C. LOCATION OF DOCUMENTS

The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Deputy Director of the Water Resources Division, Santa Barbara County Public Works, located at 123 E Anapamu St, Santa Barbara, CA 93101.

#### D. ENVIRONMENTAL REPORTING AND MONITORING PROGRAM

Pursuant to Public Resources Code Section 21081.6, the Board hereby adopts the approved project description and mitigation measures, with their corresponding mitigation monitoring requirements, as the monitoring program for this project. The monitoring program is designed to ensure compliance during project implementation and mitigation or avoidance of significant effects on the environment.

#### E. FINDINGS THAT CERTAIN UNAVOIDABLE IMPACTS ARE MITIGATED TO THE MAXIMUM EXTENT FEASIBLE (CLASS I IMPACTS)

The NCSD Waterline Intertie Project identified significant unavoidable impacts (Class I) in the areas of Land Use and Planning and Population and Housing. These impacts do not pertain to the portion of the project on District-owned property that is being considered and approved by the Board, therefore no Statement of Overriding Considerations is required for this approval process. {CEQA Guidelines Section 15096(g)(1)}

## F. FINDINGS THAT CERTAIN IMPACTS ARE MITIGATED TO INSIGNIFICANCE BY CONDITIONS OF APPROVAL (CLASS II IMPACTS).

Within that portion of the project under District approval, the NCSW Waterline Intertie Project EIR identified seven subject areas for which the proposed project is considered to cause or contribute to significant, but mitigable environmental impacts (Class II). The subject areas are Water, Biological Resources, Cultural Resources, Geology, Traffic, Noise, and Air Quality. With implementation of mitigation measures identified in the Final EIR and AEIR, and outlined below, the Board of Directors finds that these impacts would be reduced to less than significant levels. Portions of the project not subject to Board approval have been deleted from the impacts and associated mitigation measures, i.e. when an impact refers to pipeline, storage tank and pump stations, references to the storage tank and pump station are deleted because these are not components of the project occurring on County-owned property and are therefore not subject to Board approval.

The Nipomo Community Services District has determined that these mitigation measures will result in a substantial reduction of the following impacts which have been mitigated to a level of insignificance.

### **Water Resources**

Impact C-3 – The proposed project may result in degradation of surface water quality as a result of potential construction related spills.

#### Mitigations:

C-5: The Nipomo Community Services District shall develop a Stormwater Pollution Prevention Plan (SWPPP) that will include Best Management Practices (BMPs) to prevent the discharge of construction materials, contaminants, washings, concrete, fuels, and oils. The SWPPP will be reviewed and approved by the Central Coast RWQCB prior to commencement of any clearing or other construction activities. BMPs should include the following measures:

- Properly maintain (off-site) all construction vehicles and equipment that enter the construction area to prevent leaks of fuel, oil, and other vehicle fluids.
- Conduct equipment and vehicle fueling off-site. If refueling is required at the Project site, it will be done within a bermed area with an impervious surface to collect spilled fluids.
- Prepare a Spill Prevention/Spill Response Plan for the site that includes training, equipment and procedures to address spills from equipment, stored fluids and other materials including disposal of spilled material and materials used for clean-up of contaminated soils and materials.
- Place all stored fuel, lubricants, paints, and other construction liquids in secured and covered containers within a bermed area.
- Conduct any mixing and storage of concrete and mortar in contained areas.
- Insure that all equipment washing and major maintenance is prohibited at the project site except in bermed areas.

- Remove all refuse and excess material from the site as soon as possible.
- Channelize storm water to avoid construction equipment and materials, and to divert runoff to existing drainages.

## **Biological Resources**

Impact D-2: Construction activities within the proposed pipeline alignments could adversely affect nesting activities of protected migratory birds and raptors.

### Mitigations:

D-1: Pipeline construction operations shall be conducted prior to, or after, the nesting season (February 15 to September 15) to avoid any potential impacts to nesting birds. This shall include any necessary vegetation and/or tree removals which could disrupt nesting birds. Therefore, construction activities should be conducted between the months of October and January to the extent feasible.

If the above measure is not feasible, pre-construction surveys shall be conducted by a qualified biologist two weeks prior to the initiation of construction activities initiated between February 15 and September 15 to identify potential bird nesting sites.

- If active nest sites of common bird species protected under the Migratory Bird Treaty Act (e.g., Northern mockingbird, House finch, etc.) and Fish and Game Code Sections 3503 and 3503.5 are observed within 300 feet of construction activities, then the project shall be modified and/or delayed as necessary to avoid direct take of the identified nests, eggs and/or young.
- If active nest sites of raptors and/or species of special concern are observed within the vicinity of project construction activities, construction shall avoid the nest site or be terminated until the California Department of Fish and Game is contacted and an appropriate buffer zone around the nest site is established. Construction activities in the buffer zone shall be prohibited until the young have fledged the nest or the nest is abandoned.

Impact: D-3: Construction activities could adversely affect special-status terrestrial and avian species potentially occurring in the project area.

### Mitigations:

D-2: All equipment staging and construction crew parking areas shall be located within pre-designated staging areas identified on construction plans which avoid identified sensitive habitats as determined by a qualified biological monitor. This shall include pre-designation of all staging areas, proposed horizontal directional drilling and jack-and-bore operations. Additionally, all construction access routes shall be established in previously disturbed areas and/or existing roadways.

D-3: Exclusionary and silt fencing will be erected at the boundaries of the construction areas to avoid equipment and human intrusion into adjacent habitats with emphasis on protection of areas containing special-status species. The exact location of exclusionary and silt fencing for each construction area shall be

determined by a qualified biological monitor. The fencing shall remain in place throughout the construction phase for each project component.

D-4: A qualified biological monitor shall conduct a worker orientation for all construction contractors (site supervisors, equipment operators and laborers) which emphasizes the presence and identification of special-status species within the project area, their habitat requirements and applicable regulatory policies and provisions regarding their protection and measures being implemented to avoid and/or minimize impacts.

D-5: If nighttime construction activities are warranted, all equipment lighting shall be shielded away from adjacent wildlife habitat areas and the open sky in order to minimize lighting/glare impacts of wildlife while still providing safe working conditions for construction personnel.

D-6: A dust control program during the construction phase of the project shall be implemented to minimize dust impacts to adjacent vegetation communities and associated special-status species

D-7: A qualified biologist shall conduct a pre-activity survey to determine presence/absence of California horned lizard within and adjacent to the horizontal directional drilling laydown areas and jack-and-bore locations along the southern boundary of the Santa Maria River. Surveys shall only be required during the active period of California horned lizards (generally April through September). If California horned lizards are identified adjacent to and/or within work areas, hand rakes or an equivalent method shall be utilized by the biologist in order to scarify the ground surface and encourage the horned lizards (and other wildlife) to vacate the immediate area prior to construction. Alternatively, drift fences shall be used to capture horned lizards. As necessary, the qualified biologist shall physically relocate any California horned lizards to suitable habitat located outside the construction zone(s). Procedures and protocols for relocation shall be based up on pre-project consultation with the California Department of Fish and Game.

D-8: A qualified biological monitor shall be on-site during all vegetation clearing and shall periodically monitor the project area during construction activities in order to inspect protective fencing, equipment staging areas and to physically relocate or remove any special-status wildlife species entering the construction zone (e.g., California horned lizard, etc.). All special-status species shall be relocated to suitable habitat located outside the construction zone by the qualified biologist. Exact procedures and protocols for relocating shall be based upon pre-project consultation with California Department of Fish and Game.

D-9: Nesting bird surveys shall be conducted between February 15 and August 15 to identify nest sites of special-status bird species including Loggerhead shrike, California horned lark, Northern harrier, Cooper's hawk, White-tailed kite and Tricolored blackbird.

Impact: D-4: Pipeline construction activities could adversely affect aquatic and semi-aquatic special-status species within the Santa Maria River and Blosser Road drainage canal.

### Mitigations:

D-10: Site disturbance and construction activities associated with the Santa Maria River pipeline crossing shall not occur during the rainy season (October 15 to April 15). No construction activities shall occur during or immediately following a rain event or if water is flowing within the Santa Maria River.

D-11: A qualified biological monitor shall conduct a worker orientation which emphasizes the presence of semi-aquatic, special-status species within the project area (e.g., California red-legged frog, Two-striped garter snake, etc.), their habitat requirements, applicable regulatory policies and provisions regarding their protection and measures being implemented to avoid and/or minimize impacts.

D-12: The Blosser Road drainage canal shall be illustrated on all final construction plans. At no time shall any equipment and/or materials staging be allowed within the bed or banks of the drainage feature. In addition, a row of silt fencing or equivalent shall be installed along the perimeter of the drainage canal during project operations to prohibit CRLF movement into the work zone.

D-13: All work areas within 100 feet of known California red-legged frog habitat shall be surveyed by a qualified biologist each day prior to the initiation of construction activities. As necessary, the qualified biologist shall physically relocate semi-aquatic, special-status species (e.g., Southwestern pond turtle, Two-striped garter snake, etc.) and common semi-aquatic species (e.g., Western toad, Pacific chorus frog, etc.) to suitable habitat areas located outside the construction zone(s). Exact procedures and protocols for relocation of the special-status species shall be based upon pre-project consultation with the California Department of Fish and Game. In the event California red-legged frog is identified in a work area, all work shall cease until the California red-legged frog has safely vacated the work area. At no time shall any California red-legged frog be relocated and/or affected by project operations without prior approval from the U.S. Fish and Wildlife Service. Exclusionary fencing will be erected at the boundaries of the construction areas to avoid equipment and human intrusion into adjacent habitats with emphasis on protection of areas containing special-status species. In addition, silt fencing will be installed around temporary aquatic habitats (i.e. trenches that have perched groundwater) that have formed during project activities, to minimize the potential for migration of CRLF from the adjacent agricultural pond. The exact location of exclusionary and silt fencing shall be determined by a qualified biological monitor. The fencing shall remain in place throughout the construction phase for each individual project component.

D-14: Prior to commencing construction, NCSD shall prepare the following plans and agency permit applications, and shall implement all plans prior to, during and immediately following construction activities.

- In compliance with the San Luis Obispo County Land Use Ordinance, the District shall prepare an Erosion and Sedimentation Control Plan (ESCP) outlining the measures to address both temporary (i.e., site disturbance, stock piling and horizontal directional drilling activities) and final (i.e., post-construction) methods for stabilizing soil and minimizing soil loss from the proposed project site. All applicable measures shall be included on final construction plans and adhered to throughout the project.

- All project operations shall comply with the requirements under the General Construction Storm Water General Permit, issued by the State Water Resources Control Board. Such requirements will include preparation of a Storm Water Pollution Prevention Plan (SWPPP). The SWPPP shall include provisions for the installation and maintenance of Best Management Practices to reduce the potential for erosion of disturbed soils at the project site.
- A Spill Contingency Plan (SCP) shall be prepared outlining measures to prevent the release of petroleum and hazardous materials including containment methods for emergency clean-up operations. Prevention measures shall include, but not be limited to identification of appropriate fueling areas away from sensitive habitat areas such as swales and/or drainages, a maintenance schedule for equipment, and a list of appropriate containment and spill response materials to be stored on-site. All vehicles shall be staged only in appropriately marked and protected areas and at no time shall any cleaning and/or refueling of equipment be allowed upslope and/or within the vicinity of any drainages and/or wetland habitat areas, including agricultural stock ponds. If an accidental spill of a hazardous or toxic material occurs, the Regional Water Quality Control Board (RWQCB), the California Department of Fish and Game and California Department of Toxic Substances (CDTS) shall be notified.
- The District shall submit an application for a Streambed Alteration Agreement (SAA) to the California Department of Fish and Game. If required, the final SAA shall be received prior to project construction. All conditions in the final SAA shall be strictly adhered to during construction.

D-16: Spill containment equipment shall be available on-site during all construction activities. As necessary, this shall include placement of individual spill response trailers at each active work area during project operations.

Impact: D-5 Construction activities could result in short-term impacts to the sensitive habitat areas of the Santa Maria River, including jurisdictional Waters of the United States and designated critical habitat of the Southern California ESU Steelhead.

#### Mitigations:

D-17: In the event that a "Frac-out" occurs within the Santa Maria River channel due to horizontal directional drilling operations, the appropriate permits shall be obtained by the governing regulatory agency to facilitate clean-up and restoration of the affected portions of river channel to pre-project conditions. As necessary, this shall include a 404 Permit from the Army Corps of Engineers, a 401 Permit from the Regional Water Quality Control Board and Streambed Alteration Agreement from the California Department of Fish and Game.

D-18: The restoration component of the Frac-out Contingency Plan (Mitigation Measure D-14) shall be implemented as necessary to ensure that the affected portions of stream channel and associated sensitive habitat areas are restored to pre-project conditions. The restored portions of stream channel shall be monitored

until all performance criteria have been met as specified by the regulatory agency permits.

## **Cultural Resources**

Impact F-2 Project grading and construction may result in the discovery of currently-unknown cultural resources.

### Mitigations:

F-3: An archaeological workshop shall be conducted by a qualified archaeologist at the pre-construction meeting for construction personnel to educate them about what types of cultural material may be encountered during construction grading and excavation. A procedure for notification of accidental discovery and communication network shall be developed so that if any suspected cultural materials are unearthed, they can be quickly examined and evaluated by a qualified archaeologist and appropriate recommendations can be made.

F-4: During any grading or excavation associated with the project, if any cultural materials are unearthed, work in that area shall be halted until all cultural materials can be examined by a qualified archaeologist and appropriate recommendations made.

## **Geology**

Impact G-3 The proposed project could result in substantial soil erosion or the loss of topsoil into the Santa Maria River or other local drainages.

### Mitigation:

G-1: The following shall be included in Final Grading and Drainage Plans to prevent erosion induced siltation of on-site and off-site drainages:

- The use of temporary berms and sedimentation traps, such as silt fencing, straw bales, and sand bags, to be installed in association with project excavations, grading and underground horizontal directional drilling activities in order to minimize erosion of soils and sedimentation into the Santa Maria River and other local drainages. Sedimentation basins and traps shall be cleaned periodically with silt removal and disposal in a location approved by the District.
- A prohibition against grading during the rainy season (November 1-April 15) unless erosion control measures found adequate by the District are implemented.
- Methods for revegetation of disturbed soils for long-term stabilization.

## **Traffic**

Impact H-2 Project construction activities may result in the diversion of traffic creating an unacceptable level of service, insufficient parking, blocking or impeding access to adjacent properties or result in hazards to pedestrians or bicyclists.



### Mitigation:

H-1: All project construction sites accessing onto or occurring adjacent to public roadways shall provide adequate signage, barriers and, if necessary, flagmen in order to insure the safe diversion of traffic, bicyclists and/or pedestrians. These measures shall also insure continued access from adjacent properties to local roadways.

## **Noise**

Impact I-1 The proposed project will generate construction noise which may impact surrounding areas containing noise sensitive uses.

### Mitigations:

I-1: All project construction activities shall comply with the County of San Luis Obispo Noise Ordinance Section 22.06.042(d) which limits noise-generating construction activities to the hours between 7:00 a.m. and 9:00 p.m. on weekdays and 8:00 a.m. and 5:00 p.m. on Saturdays and Sundays.

I-2: All construction equipment utilizing combustion engines shall be equipped with "critical" grade (rather than "stock" grade) noise mufflers that are in good condition. Noise level reductions with the use of "critical" grade mufflers can be as high as 5 dBA. Back up "beepers" will also be tuned to insure lowest possible noise levels.

I-3: All necessary measures to muffle, shield or enclose construction equipment shall be implemented in order to insure that noise levels at the property line of the nearest residence do not exceed an exterior noise level of 60 dBA. During project construction, noise monitoring shall be conducted by a qualified acoustical engineer in order to insure the acceptable noise threshold of 60 dBA at the property line of the nearest sensitive receptor.

## **Air Quality**

Impact J-1 The proposed project will result in the generation of air pollutants during project construction activities.

### Mitigations:

J-1: Water trucks or sprinkler systems shall be used in sufficient quantities to prevent airborne dust from leaving any construction site. Increased watering frequency will be required whenever wind speeds exceed 15 mph. Reclaimed water, if available, shall be used for dust control and other construction-related purposes during project construction.

J-2: All dirt stock-pile areas shall be sprayed daily as needed.

J-3: Exposed ground areas that are planned to be reworked at dates greater than one month shall be sown with a fast-germinating native grass seed and watered until vegetation is established.

J-4: All disturbed soil areas not subject to revegetation shall be stabilized using approved chemical soil binders, jute netting or other methods approved by the APCD.

J-5: All roadways, driveways, sidewalks, etc. to be paved shall be completed as soon as possible. In addition, building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.

J-6: Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at a construction site.

J-7: All trucks hauling dirt, sand, soil or other loose materials shall be covered or maintain at least two feet of freeboard.

J-8: Where vehicles enter and exit unpaved roads onto streets, wheel washers or gravel pads shall be installed or trucks and equipment will be washed when leaving the site.

J-9: Streets shall be swept at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers with reclaimed water shall be used where possible.

J-10: All material excavated or graded shall be sufficiently watered to prevent excessive amounts of dust. Watering shall occur at least twice a day with complete coverage, preferably in the late morning and after work is done for the day.

J-11: All PM10 mitigation measures required must be included on any grading or building plans. These plans shall indicate the source of reclaimed water to be used for dust control. In addition, the contractor shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of particulate matter off site. Their duties shall include holidays and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the APCD prior to construction.

J-12: All construction equipment shall be properly maintained and tuned according to manufacturer's specifications.

J-13: All off-road and portable, diesel-powered equipment, including, but not limited to, bulldozers, grading, cranes, loaders, scrapers, backhoes, generator sets, compressors or auxiliary power units, shall be fueled exclusively with CARB motor vehicles diesel fuel. Such equipment shall be stored within a fenced enclosure during non-working hours in order to minimize potential vandalism.

J-14: Where possible, diesel powered equipment shall be replaced with gasoline, electrical, CNG or LPG powered equipment.

J-15: Diesel equipment used in proposed horizontal directional drilling shall either be certified pursuant to the California Air Resources Board's Portable Equipment Registration Program or will be subject to an Authority to Construct issued by the San Luis Obispo County Air Pollution Control District (APCD). This permit will allow

implementation of Best Available Control Technologies including diesel particulate filters and/or proper fuel selection.

J-16: Prior to any project grading, a geologic analysis will be performed in order to determine if asbestos-bearing serpentine rock is present. If naturally occurring asbestos is found at the project site, an Asbestos Health and Safety Program and an Asbestos Dust Control Plan will be submitted to the Air Pollution Control District for review and approval prior to project grading.

#### G. CUMULATIVE EFFECTS

Given the narrow focus of the Responsible Agency's jurisdiction regarding the Nipomo Community Services District Waterline Intertie project, no cumulative impacts will result from the portion of the project being approved by the District.

#### H. FINDINGS RELATED TO GROWTH INDUCING EFFECTS

Given the narrow focus of the Responsible Agency's jurisdiction regarding the Nipomo Community Services District Waterline Intertie project, no growth inducing effects will result from the portion of the project being approved by the District.

#### I. FINDINGS THAT IDENTIFIED PROJECT ALTERNATIVES ARE NOT FEASIBLE

Given the narrow focus of the Responsible Agency's jurisdiction regarding the Nipomo Community Services District Waterline Intertie project, findings regarding alternatives are not required for the portion of the project being approved by the District.