



MEMORANDUM

TO: SLDMWA Board of Directors, Alternates

FROM: Rebecca Akroyd, General Counsel
Joe McGahan, Drainage Consultant

DATE: October 10, 2019

RE: Adoption of Resolutions (1) Considering and Approving an Addendum to the Certified 2009 Final EIR for the Grassland Bypass Project and (2) Approving Continuation and Modification of the Grassland Bypass Project (Long-Term Storm Water Management Plan 2020-2045)

BACKGROUND

The San Luis & Delta-Mendota Water Authority (Authority), as Lead Agency under the California Environmental Quality Act (CEQA), prepared that certain Grassland Bypass Project (GBP) 2010-2019 Environmental Impact Statement/Environmental Impact Report, Final August 2009 (2009 Final EIS/EIR), in cooperation with the Bureau of Reclamation (Reclamation), the Lead Agency under the National Environmental Policy Act (NEPA).

Since 1996, the Authority has entered into a continuous series of agreements with Reclamation authorizing the Authority to use a portion of the San Luis Drain to convey agricultural drainwater around adjacent wildlife management areas to Mud Slough, a tributary of the San Joaquin River. The current agreement for use of the San Luis Drain, initiated in 2009, is scheduled to expire on December 31, 2019. Drainage management activities have eliminated the discharge of irrigation-season drainage beginning in 2015, however discharge of storm-induced drainage continues to occur. The Long-Term Storm Water Management Plan was developed to address and manage these storm-related flows.

The proposed action is continuation and minor modification of the GBP through adoption of the Long-Term Storm Water Management Plan 2020-2045, to allow continued use of the San Luis Drain combined with use of existing and new short-term storage basins and other drainage management tools to reduce storm-induced discharges to Mud Slough (North) in the San Luis National Wildlife Refuge and the California Fish and Wildlife Service China Island Refuge. The proposed action makes refinements to the previously analyzed GBP and includes measures to address the capacity limitations of the Grassland Bypass Channel and San Luis Drain, storm event frequency and magnitude, and available storm water management tools to minimize discharges. It also enhances existing facilities including securing ownership of land for purposes of the San

Joaquin River Water Quality Improvement Project, new pump/conveyance systems, additional storage basins, and a remote shut-off system for operation of tile sumps throughout the Grassland Drainage Area.

ISSUE FOR DECISION

Whether the Board of Directors should adopt resolutions (1) considering and approving an Addendum to the Certified 2009 Final EIR for the Grassland Bypass Project and (2) approving continuation and modification of the Grassland Bypass Project (Long-Term Storm Water Management Plan 2020-2045).

OPTIONS AND RECOMMENDATION

Both staff and the Grassland Basin Drainage Steering Committee recommend adoption of the resolutions referenced above.

ANALYSIS

The Grassland Bypass Project, beginning in 1997, has successfully reduced to zero the discharge of agriculturally produced, subsurface drain water from the Grassland Drainage Area (GDA) during the irrigation season. Remaining discharges from the GDA, 3,800 acre feet in 2018, are the result of storm events and will continue to occur as a result of future storm events. The Authority developed the Long-Term Storm Water Plan (Plan) to address these discharges.

The purpose of the Plan is to manage and, to the extent possible, reduce the volume of storm-induced drain water discharged from the Grassland Drainage Area. The tools described in the Plan, including the addition of short-term storage basins and remote tile sump shut-off systems, will help manage and reduce the discharge of storm-induced flows and meet the selenium water quality objectives in Mud Slough (North). The Plan includes new selenium load allocations for discharges from the San Luis Drain as well as a broad and aggressive monitoring program.

The Long-Term Storm Water Plan extends the Grassland Bypass Project beyond December 31, 2019 and includes some project modifications that were not analyzed in the 2009 EIS/EIR. These proposed project modifications do not constitute substantial changes to the project analyzed in 2009 and did not produce new, significant effects. As a result, an Addendum to the 2009 EIS/EIR was developed to describe the project modifications and associated effects.

SAN LUIS & DELTA-MENDOTA WATER AUTHORITY

RESOLUTION NO. 2019-___

**RESOLUTION CONSIDERING AND APPROVING AN ADDENDUM TO THE
CERTIFIED 2009 FINAL ENVIRONMENTAL IMPACT REPORT (SCH#2007121110)
FOR THE GRASSLAND BYPASS PROJECT**

WHEREAS, the United States Bureau of Reclamation (“Reclamation”) as Lead Agency under the National Environmental Policy Act (“NEPA”) and the Board of Directors (“Board”) of the San Luis & Delta-Mendota Water Authority (“Authority”) as Lead Agency under the California Environmental Quality Act (“CEQA”) prepared and certified that certain joint Final Environmental Impact Statement/Environmental Impact Report for Continuation of the Grassland Bypass Project, 2010 – 2019 (“2009 Final EIS/EIR”).

WHEREAS, the Authority’s certification of the 2009 Final EIS/EIR on October 8, 2009, was supported by the following findings:

1. The EIS/EIR for the Project has been completed in accordance with CEQA; and
2. The Final EIS/EIR was presented to the Authority, and the Authority reviewed and considered the information contained in the Final EIS/EIR prior to approval of the Agreement for Use of the San Luis Drain, 2010-2019; and
3. The EIS/EIR reflects the independent judgment of the Board as the decision-making body of the Lead Agency under CEQA.

WHEREAS, the current Agreement for Continued Use of the San Luis Drain (Agreement No. 10-WC-20-3975) is scheduled to expire on December 31, 2019.

WHEREAS, the proposed action is continuation and minor modification of the Grassland Bypass Project (“GBP”) through adoption of the Long-Term Storm Water Management Plan 2020-2045, to allow continued use of the San Luis Drain at its current capacity (150 cfs) combined with use of existing and new short-term storage basins to reduce storm-induced discharges to Mud Slough (North) in the San Luis National Wildlife Refuge and the California Fish and Wildlife Service China Island Refuge. The proposed action makes refinements to the previously analyzed GBP and includes measures to address the capacity limitations of the Grassland Bypass Channel and San Luis Drain, storm event frequency and magnitude, and available storm water management tools to minimize discharges. It also enhances existing facilities including securing ownership of land for purposes of the San Joaquin River Water Quality Improvement Project, new pump/conveyance systems, additional storage basins, and a remote shut-off system for operation of tile sumps throughout the Grassland Drainage Area.

WHEREAS, in light of the proposed refinements and modifications to the GBP, the Authority as Lead Agency under CEQA prepared an Initial Study and accompanying technical reports (attached to this Resolution as **Exhibit A**), which confirmed that the prior CEQA analyses retain their relevance; that the 2009 Final EIS/EIR fully analyzed and mitigated, where feasible, all potentially significant environmental impacts, if any, that would result from the modified GBP; and that none of the conditions described in CEQA Guidelines sections 15162 and 15163 or Public Resources Code section 21166 have occurred as a result of the proposed modifications, such that an Addendum to the 2009 Final EIS/EIR (attached to this Resolution as **Exhibit B**) was prepared pursuant to section 15164 of the CEQA Guidelines.

WHEREAS, in the interests of public participation and information, the Authority circulated the draft Addendum for public review and comment from August 14, 2019 through September 13, 2019.

WHEREAS, the Authority reviewed comments received on the draft Addendum and evaluated them in light of the requirements of CEQA, including but not limited to the requirements of Public Resources Code section 21166 and CEQA Guidelines sections 15162, 15163, and 15164. The Authority's consideration of comments received confirmed that none of the conditions described in Public Resources Code section 21166 and CEQA Guidelines sections 15162 and 15163 has occurred since certification of the 2009 Final EIS/EIR. Continued implementation and refinement of the GBP through the proposed action will not result in one or more significant effects not discussed in the 2009 Final EIS/EIR, nor will the proposed action create substantially more severe significant effects than previously examined in the 2009 Final EIS/EIR, nor has any other event occurred as to trigger subsequent or supplemental environmental CEQA review.

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS:

Section 1. The facts stated in the recitals above are true and correct, and the Board so finds and determines.

Section 2. Based on substantial evidence in light of the whole record, including but not limited to the 2009 Final EIS/EIR, the Initial Study and technical reports, the Addendum, comments received on the draft Addendum and the Authority's responses, the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it, the Board makes the following findings:

Section 2.1. The Board finds that project elements, mitigation measures, and monitoring and reporting requirements related to those mitigation measures have been incorporated into the project, as modified, to avoid and prevent significant adverse effects to the extent feasible, and further finds as set forth below.

2.1.1 The mitigation measures and monitoring and reporting requirements related to those mitigation measures incorporated into the project are feasible and implementable for the project as modified, and will avoid or reduce potential impacts of the project as modified to a less-00040336.1

than-significant level other than those certain significant unavoidable impacts related to groundwater resources identified in the 2009 Final EIS/EIR. The Board finds that those impacts identified in the 2009 Final EIS/EIR as significant and unavoidable remain significant and unavoidable for the project as modified, but that the modified project does not increase the severity of those significant unavoidable adverse effects identified in the 2009 Final EIS/EIR.

2.1.2 The project as modified is subject to the applicable requirements of the adopted Mitigation, Monitoring and Reporting Program (“MMRP”) set forth in Chapter 15 of the 2009 Final EIS/EIR. The Board re-adopts and refines those mitigation measures identified in the 2009 Final EIS/EIR that are relevant to the project as modified, as detailed specifically in the Mitigation Monitoring and Reporting Program prepared for the modified project and attached hereto as **Exhibit C**.

2.1.3 The Board finds that the CEQA Findings and Statement of Overriding Considerations made in connection with certification of the 2009 Final EIS/EIR (attached hereto as **Exhibit D**) remain valid and appropriate for purposes of the project as modified.

Section 2.2 The Authority finds that the Addendum to the 2009 Final EIS/EIR has been presented to the Board as the decision-making body of the Lead Agency under CEQA, and the Board has reviewed and considered the information in the Addendum and the certified EIS/EIR prior to considering or acting upon this Resolution and prior to approval of modifications to the project. The Board finds that the Addendum has been completed in compliance with CEQA and further finds as set forth below:

2.2.1 The Authority has independently reviewed and considered the Addendum, which along with the certified 2009 Final EIS/EIR represents the Authority’s independent judgment and analysis. The Board has reviewed and considered the Addendum along with the 2009 Final EIS/EIR and finds that those documents taken together contain a complete and accurate reporting of the environmental impacts associated with the project as modified.

2.2.2 The project modifications will not substantially increase the severity of the impacts previously disclosed in the certified 2009 Final EIS/EIR. The Addendum has been prepared in accordance with CEQA Guidelines section 15164 and none of the conditions requiring supplemental or subsequent environmental review under CEQA Guidelines 15162 or 15163 exist because the project modifications:

- a) will not result in substantial changes that would require major revisions of the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and
- b) will not result in substantial changes with respect to the circumstances under which the project as modified is developed that would require major revisions

of the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of the previously identified significant effects; and

- c) does not present new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the EIR documents were certified or adopted, as applicable, showing any of the following: (i) that the modifications would have one or more significant effects not discussed in the earlier environmental documentation; (ii) that significant effects previously examined would be substantially more severe than shown in the earlier environmental documentation; (iii) that mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects, but the proponent declined to adopt such measures; or (iv) that mitigation measures or alternatives considerably different from those analyzed previously would substantially reduce one or more significant effects on the environment, but which the proponent declined to adopt.

Section 2.3 The Authority shall be the custodian of the documents and materials which constitute the record of the proceeding, consisting of the documents and materials set forth in Public Resources Code section 21167.6(e), and the record shall be retained and available for review at the principal office of the Water Authority at 842 Sixth Street, Los Banos, California.

Section 2.4 A Notice of Determination substantially in the form of **Exhibit E** shall be filed with the County Clerks of the counties of Fresno, Merced, and Stanislaus within five (5) working days after the adoption of this Resolution approving the Addendum and the Board's Resolution Approving Continuation and Modification of the Grassland Bypass Project (Long-Term Storm Water Management Plan 2020-2045).

PASSED AND ADOPTED this ___th day of October, 2019, by the following vote:

AYES:

NAYS:

ABSTAIN:

CANNON MICHAEL, Chairman
SAN LUIS & DELTA-MENDOTA WATER AUTHORITY

Attest:

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FEDERICO BARAJAS, SECRETARY

I hereby certify that the foregoing Resolution No. 2019-__ was duly and regularly adopted by the Board of Directors of the San Luis & Delta-Mendota Water Authority at the meeting thereof held on the __th day of October, 2019.

Federico Barajas, Secretary