

Purpose of the Environmental Impact Report

Modesto Irrigation District (MID) and the City of Modesto (City) have prepared this draft subsequent environmental impact report (SEIR) to provide the public, responsible agencies, and trustee agencies with information about the potential environmental effects of the proposed Modesto Regional Water Treatment Plant (MRWTP) Phase Two Expansion project. This SEIR was prepared in compliance with the California Environmental Quality Act (CEQA) of 1970 (as amended) and the State CEQA Guidelines (14 California Code of Regulations [CCR] 15000 et seq.) MID and the City are both lead agencies on this project.

As described in the CEQA Guidelines, Section 15121(a), an environmental impact report (EIR) is a public information document that assesses potential environmental effects of a proposed project, as well as identifies mitigation measures and alternatives to the project that could reduce or avoid adverse environmental impacts (14 CCR 15121[a]). CEQA requires that state and local government agencies consider the environmental consequences of projects over which they have discretionary authority. MID and the City's proposed MRWTP Phase Two Expansion project constitutes a "project" under CEQA. The EIR is an informational document used in the planning and decision-making process. It is not the purpose of an EIR to recommend either approval or denial of a project.

The procedures required by CEQA "...are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which would avoid or substantially lessen such significant effects" (California Public Resources Code [PRC] 21002). As a general rule, CEQA policy states: "Public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects." However, "...in the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof" (PRC 21002). Stated differently, under CEQA, a lead agency must make certain determinations before it can approve or carry out a project if the EIR reveals that the project would result in one or more significant environmental impacts.

The lead agency must certify the final EIR. According to the CEQA Guidelines, “certification” consists of three separate steps. The agency’s decision-making body must conclude, first, that the document “...has been completed in compliance with CEQA;” second, that the body has reviewed and considered the information within the EIR prior to approving the project; and third, that “...the final EIR reflects the lead agency’s independent judgment and analysis” (14 CCR 15090[a], PRC 21082.1[c]).

Before approving a project for which a certified final EIR has identified significant environmental effects, the lead agency must make one or more of the following specific written findings for each of the identified significant impacts (14 CCR 15091[a]):

1. Changes or alternations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the EIR.
2. Such changes or alternations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
3. Specific economic, legal, social, technological or other considerations make infeasible the mitigation measures or project alternatives identified in the final EIR.

If significant environmental effects remain following the adoption of all feasible mitigation measures or alternatives, the lead agency must adopt a “statement of overriding considerations” before it can proceed with the project. The statement of overriding consideration must be supported by substantial evidence in the record (14 CCR 15092-3).

These overriding considerations include the economic, legal, social, technological, or other benefits of the proposed project. The lead agency must balance these potential benefits against the project’s unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the lead agency may consider the adverse environmental impacts to be acceptable (14 CCR 15093[a]). These benefits should be set forth in the statement of overriding considerations, and may be based on the final EIR and/or other information in the record of proceedings (14 CCR 15093[b]).

Notably, the California Supreme Court, reflecting on this multi-step process for considering project impacts and benefits, has stated, “[t]he wisdom of approving ...any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced.” (See *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 576.)

CEQA EIR Process

Subsequent EIR

Once an EIR has been certified for a project, no subsequent EIR (SEIR) is required unless there is a substantial change in the conditions analyzed in the original EIR indicating that there is a new or more severe significant effect. Specifically, an SEIR is necessary when the agency determines, on the basis of substantial evidence in light of the whole record, that substantial changes proposed in the project or conditions under which the project would be undertaken, including new information that was not known when the previous EIR was certified, will require major revisions to the previous EIR because of the involvement of new significant environmental effects or a substantial increase in the severity of previously identified effects.

In the case of the proposed project, a previous EIR was prepared and certified in 1990 (Modesto Irrigation District 1990). Due to the period of time elapsed since that EIR was certified, and due to changes in the project as identified in Chapter 2.0, preparation of this SEIR was determined to be warranted.

A project EIR is used when site-specific details are known and the project is ready to be implemented in the near future; therefore, this SEIR is considered a project SEIR, as the appropriate environmental document for the proposed project. The SEIR will be used by the lead agencies (MID and the City) to evaluate the proposed project's environmental impacts; it can be further used to modify, approve, or deny approval of the proposed project based on the analysis it provides.

Initial Study and Notice of Preparation

In accordance with State CEQA Guidelines (14 CCR 15082[a], 15103, 15375), MID and the City circulated an Initial Study/Notice of Preparation (IS/NOP) of an EIR for the proposed project on January 26, 2004 (see Appendix A). The IS/NOP, in which the City and MID were identified as co-lead agencies for the proposed project, was circulated to the public; to local, state, and federal agencies; and to other interested parties. The purpose of the IS/NOP was to inform responsible agencies and the public that the proposed project could have significant effects on the environment and to solicit their comments. Concerns raised in response to the IS/NOP were considered during preparation of this draft SEIR (see Appendix B).

Draft SEIR

This draft SEIR contains a description of the proposed project, a description of the environmental setting, discussions of project impacts, discussions of

measures to be implemented to mitigate impacts found to be significant, as well as an analysis of project alternatives.

Public Review

This document will be circulated to local, state, and federal agencies and to interested organizations and individuals who may wish to review and comment on the report. Its publication marks the beginning of a 45-day public review period. Written comments or questions concerning this draft SEIR should be directed to the name and address listed below.

Submittal of written comments via e-mail (Microsoft Word format) would be greatly appreciated.

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All documents mentioned herein or related to this project can be reviewed any MID business day between the hours of 8:00 a.m. and 5:00 p.m. at the Modesto Irrigation District, located at the following address:

Modesto Irrigation District
1231 Eleventh Street
Modesto, CA 95354

Final EIR and EIR Certification

Written and oral comments received in response to the draft SEIR will be addressed in a Response to Comments addendum document which, together with the draft SEIR, will constitute the final EIR. After review of the project and the draft SEIR, respective agency staff will recommend to the MID Board of Directors and the Modesto City Council whether to approve or deny their respective portions of the project. These governing bodies will then review their portions of the project, the final SEIR, staff recommendations, and public testimony and decide whether to certify their portions of the SEIR and whether to approve or deny their portion of the project.

If the MID Board and/or City Council approves their portion of the proposed project in spite of significant impacts identified by the EIR that cannot be mitigated, these agencies must state in writing the reasons for their actions. A Statement of Overriding Considerations must be included in the record of the

project approval and mentioned in the Notice of Determination (14 CCR 15093[c]).

Mitigation Monitoring and Reporting

CEQA requires lead agencies to “...adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment” (PRC 21081.6). Throughout the EIR, mitigation measures have been clearly identified and presented in language that would facilitate establishment of a monitoring and reporting program. Any mitigation measures adopted by MID and/or the City as conditions for approval of the project would be included in a monitoring and reporting program to verify compliance. A draft of the mitigation monitoring and reporting program for the proposed project would be included with the final EIR for this project.

Terminology Used in this SEIR

This draft SEIR uses the following terminology to describe environmental effects of the proposed project.

- **Significance Criteria:** A set of criteria used by the lead agency to determine at what level or “threshold” an impact would be considered significant. Significance criteria used in this EIR include some that are set forth in the CEQA Guidelines (or can be discerned from the CEQA Guidelines); criteria based on factual or scientific information; criteria based on regulatory standards of local, state, and federal agencies; and criteria based on goals and policies identified in the City of Modesto General Plan.
- **Beneficial Impact:** A project impact is considered beneficial if it would result in the improvement of an existing physical condition in the environment (no mitigation required).
- **No Impact:** A no impact response is provided if, based on the current environmental setting, the stated impact simply does not apply in the context of the proposed project.
- **Less-Than-Significant Impact:** A project impact is considered less than significant when it does not reach the standard of significance and would therefore cause no substantial change in the environmental (no mitigation required).
- **Potentially Significant Impact:** A potentially significant impact is an environmental effect that may cause a substantial adverse change in the environment; however, additional information is needed regarding the extent of the impact to make the determination of significance. For CEQA purposes, a potentially significant impact is treated as if it were a significant impact.

- **Significant Impact:** A project impact is considered significant if it results in a substantial adverse change in the physical conditions of the environment. Significant impacts are identified by the evaluation of project effects in the context of specified significance criteria. Mitigation measures and/or project alternatives are identified to reduce these effects to the environment.
- **Significant and Unavoidable Impact:** A project impact is considered significant and unavoidable if it would result in a substantial adverse change in the environment that cannot be avoided or mitigated to a less-than-significant level if the project is implemented.
- **Cumulative Significant Impact:** A cumulative impact can result when a change in the environment results from the incremental impact of a project when added to other related past, present, or reasonably foreseeable future projects. Significant cumulative impacts may result from individually minor but collectively significant projects.

The SEIR also identifies particular mitigation measures that are intended to lessen project impacts. The CEQA Guidelines (14 CCR 15370) define mitigation as:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action;
- (b) minimizing impacts by limiting the degree or magnitude of the action and its implementation;
- (c) rectifying the impact by repairing, rehabilitating, or restoring the impacted environment;
- (d) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; and
- (e) compensating for the impact by replacing or providing substitute resources or environments.

SEIR Organization

This draft SEIR is organized into nine chapters as discussed below.

Executive Summary. A summary of the project description, a description of issues of concern, project alternatives, and a summary of environmental impacts are provided in this chapter.

Chapter 1.0, Introduction. This chapter describes the purpose and organization of the SEIR and its preparation, review, and certification process.

Chapter 2.0, Project Description. Chapter 2.0 describes the project background, outlines project objectives, and summarizes components of the

MRWTP Phase Two Expansion project. The project description also describes subsequent development and approvals for which this SEIR may be used.

Chapter 3.0, Environmental Analysis. This chapter introduces the section that includes nine subchapters (3.1–3.10). Each subchapter addresses a specific environmental issue area (e.g., water resources, air quality, population and housing). Each describes the existing environmental setting as it relates to that topic, discusses environmental impacts associated with project construction and operation that relate to that topic, and identifies mitigation measures for each significant (or potentially significant) impact.

Chapter 4.0, Other CEQA Considerations. Chapter 4.0 discusses several issues for which CEQA requires analysis, including cumulative impacts, significant irreversible changes, and the potential for the proposed project to induce urban growth and development.

Chapter 5.0, Alternatives. Chapter 5.0 describes alternatives to the proposed project. The alternatives are analyzed at a restricted level of detail relative to the proposed project, and are presented in order to identify options that could mitigate environmental impacts.

Chapter 6.0, Water Transfer Petition Information. Chapter 6.0 identifies and summarizes key information and EIR findings related to the water transfer that is proposed as part of the project.

Chapter 7.0, List of Preparers and Consultants. Chapter 7.0 provides the names of the EIR authors and consultants, and the agencies or individuals consulted during preparation of the SEIR.

Chapter 8.0, References Cited. Chapter 8.0 provides a list of printed references and persons consulted during the preparation of this SEIR.

Appendices. The appendices consist of the Initial Study/Notice of Preparation (IS/NOP), comments received during the 30-day IS/NOP review period, and technical background reports and data.

