

2 Introduction

2.1 Purpose of the EIR

This environmental impact report (EIR) has been prepared by the City of Santa Cruz (City), which is the lead agency for the Laguna Creek Diversion Retrofit Project (Proposed Project). This EIR has been prepared in accordance with the California Environmental Quality Act (CEQA), which is found in the California Public Resources Code, Division 13, and with the CEQA Guidelines, which are found in Title 14 of the California Code of Regulations, commencing with Section 15000. Under CEQA, the lead agency for a project is the public agency with primary responsibility for carrying out or approving the project, and for implementing the requirements of CEQA.

As stated in the CEQA Guidelines Section 15002, the basic purposes of CEQA are to:

- Inform governmental decision makers and the public about the potential, significant environmental effects of proposed activities.
- Identify the ways that environmental damage can be avoided or significantly reduced.
- Prevent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible.
- Disclose to the public the reasons why a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved.

Pursuant to CEQA Guidelines Section 15121, an EIR is an informational document that is required to (1) identify the potentially significant environmental effects of a project on the environment, (2) indicate the manner in which those significant effects can be avoided or significantly lessened via the implementation of potentially feasible mitigation measures, (3) identify a reasonable range of potentially feasible alternatives to a project that would eliminate or substantially lessen any significant environmental effects, and (4) identify any significant and unavoidable adverse impacts that cannot be mitigated or otherwise reduced. The lead agency must consider the information in the EIR along with other information which may be presented to the agency. While the information in the EIR does not control the ultimate decision about a project, the agency must consider the information in the EIR and respond to each significant effect identified in the EIR by making findings pursuant to Public Resources Code Section 21081.

Pursuant to Public Resources Code Section 21002, public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures which would substantially lessen the significant environmental effects of such projects. Furthermore, pursuant to CEQA Guidelines Section 15021, CEQA establishes a duty for public agencies to avoid or minimize environmental damage where feasible. In deciding whether changes in a project are feasible, an agency may consider specific economic, environmental, legal, social, and technological factors. As defined in the CEQA Guidelines, “feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors. This section further indicates that under CEQA, a public agency has an obligation to balance a variety of public objectives, including economic, environmental, and social factors, in determining whether and how a project should be approved. If an agency decides to approve a project that will cause one or more significant effects on the environment, the agency must prepare a “statement of overriding considerations” to reflect the ultimate balancing of competing public objectives. The environmental review process is further explained below in Section 2.4, Environmental Review and Approval Process.

2.2 Project Overview

This EIR addresses the potential environmental effects of construction of a new intake structure and appurtenances at the existing Laguna Creek Diversion Facility (Facility). The Proposed Project consists of the following primary components:

- Construction of a new intake structure with an embedded Coanda screen at the downstream face of the dam's left/east abutment (from the vantage point of looking downstream) which would include notching of the dam crest;
- Installation of intake structure appurtenances, including a collection chamber, diversion pipe, and sediment blowoff system;
- Construction of a new, cast-in-place concrete valve vault along the eastern creek bank to house the control valve equipment;
- Installation of riprap bank stabilization at the east side of the creek;
- Installation of new monitoring and control equipment, including water quality sensors, water meters, valve actuators, and telecommunications for operations and remote-control capabilities;
- Access and safety improvements, including a cast-in-place concrete stairway and guard rails at various locations within the Facility, as well as lighting; and
- Modification and decommissioning of the existing intake and capping and abandoning of the two existing sediment-control bypass valves in the dam.

A full description of all project components is provided in Chapter 3, Project Description, of this EIR.

2.3 Scope of the EIR

Regarding the scope of the EIR analysis, CEQA Guidelines Section 15060(d) states, “if the lead agency can determine that an EIR will be clearly required for a project, the agency may skip further initial review of the project and begin work directly on the EIR process....In the absence of an initial study, the lead agency shall still focus the EIR on significant effects of the project and indicate briefly its reasons for determining that other effects would not be significant or potentially significant.” CEQA Guidelines Section 15128 state that an EIR “shall contain a statement briefly indicating the reasons that various possible significant effects of a project were determined not to be significant and therefore were not discussed in detail in the EIR.”

A Notice of Preparation (NOP) was published for the Proposed Project to determine the scope and extent of environmental issues to be addressed in this EIR and is included in Appendix A. Based on review of the Proposed Project (see Chapter 3) and public comments received in response to the NOP (see Section 2.4.1, Scoping, below), the City has determined that certain environmental resource topics merit a detailed analysis while others were determined not to be significant and will not be discussed in detail in the EIR. The EIR also evaluates topics required by CEQA and the CEQA Guidelines, including growth inducement, project alternatives, and cumulative impacts.

Section 4.2, Impacts Not Found to be Significant, of this EIR is intended to satisfy the requirement of CEQA Guidelines Section 15128 state above. Environmental resource topics discussed in that section are: aesthetics, agriculture and forestry resources, mineral resources, population and housing, public services, recreation, utilities and service systems, and wildfire.

In the other sections of Chapter 4, Environmental Setting, Impacts, and Mitigation Measures, the EIR provides a detailed evaluation of the following environmental resource topics:

- Air Quality
- Biological Resources
- Cultural Resources and Tribal Cultural Resources
- Energy
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Noise
- Transportation

As indicated above, the environmental review focuses on the potentially significant environmental effects of the Proposed Project. As defined in CEQA Guidelines Section 15382, a “significant effect on the environment” is “a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. An economic or social change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change may be considered in determining whether a physical change is significant.”

In evaluating the significance of the environmental effect of a project, the CEQA Guidelines require the lead agency to consider direct physical changes in the environment and reasonably foreseeable indirect physical changes in the environment which may be caused by the project (CEQA Guidelines Section 15064[d]). A direct physical change in the environment is a physical change in the environment which is caused by and immediately related to the project. An indirect physical change in the environment is a physical change in the environment which is not immediately related to the project, but which is caused indirectly by the project. An indirect physical change is to be considered only if that change is a reasonably foreseeable impact which may be caused by the project.

CEQA Guidelines Section 15064(e) further indicates that economic and social changes resulting from a project shall not be treated as significant effects on the environment, although they may be used to determine that a physical change shall be regarded as a significant effect on the environment. In addition, where a reasonably foreseeable physical change is caused by economic or social effects of a project, the physical change may be regarded as a significant effect in the same manner as any other physical change resulting from the project.

2.4 Environmental Review and Approval Process

2.4.1 Scoping

CEQA Guidelines Section 15083 authorizes and encourages an early consultation or scoping process to help identify the range of actions, alternatives, mitigation measures, and significant effects to be analyzed and

considered in an EIR, and to help resolve the concerns of affected regulatory agencies, organizations, and the public. Scoping is designed to explore issues for environmental evaluation, ensuring that important considerations are not overlooked and uncovering concerns that might otherwise go unrecognized.

The NOP for this EIR was circulated for a 30-day comment period from March 16, 2020 to April 15, 2020. The NOP was circulated to the State Clearinghouse and to local, regional, and federal agencies in accordance with the CEQA Guidelines. The NOP also was sent to organizations and interested citizens that have requested notification for City projects. Additionally, the NOP was circulated to owners of properties that are contiguous with the project site. A public scoping meeting was held on March 31, 2020 over the phone and the corresponding presentation about the Proposed Project was posted on the City's website at <http://www.cityofsantacruz.com/waterenvdocs>. No comments regarding the scope of EIR analysis were received at the scoping meeting.¹

Written comments were received from three public agencies and four individuals. These letters are included, along with the NOP, in Appendix A. Comments that address environmental issues have been taken into consideration in the preparation of this EIR. Table 2-1 provides a summary of scoping comments and indicates where they are addressed in the EIR or if they are beyond the scope of the EIR.

Table 2-1. Scoping Comment Summary

Summary of Comment	EIR Section Considered
<i>California Department of Fish and Wildlife (CDFW) – Bay Delta Region</i>	
Include complete descriptions of the following project features in the EIR Project Description: detailed descriptions and cross sections of the armored streambank and apron, and operation and maintenance of the new system, including but not limited to, timing of sediment releases.	Chapter 3, Project Description
Recommends that the EIR provide habitat assessments for special-status species potentially located in and surrounding the project area to use in assessing which special-status species are likely to occur in the project area.	Section 4.4, Biological Resources
Recommends exploring other stabilization techniques before installing riprap. If riprap is deemed necessary, CDFW recommends methods for enhancing habitat on riprap. The EIR should discuss the direct and cumulative effects of riprap on fish and wildlife and include mitigation measures to address significant impacts.	Section 4.4, Biological Resources
Expresses concerns about Proposed Project impacts on California Giant Salamander, California red-legged frog, Santa Cruz Black Salamander, and nesting birds, and suggests various recommended mitigation measures.	Section 4.4, Biological Resources

¹ Due to the Shelter-In-Place Order issued on March 16, 2020, by the County in response to the 2019 novel coronavirus disease (COVID-19) pandemic, the meeting was held on the phone for remote participation. Notice of this meeting, how to attend the virtual meeting, and how to access the materials online was sent to the City's mailing list in advance of the scoping meeting. This notice was posted on the City's website, the City Hall campus notice board, and on the project site, and it was sent to the same distribution list as the NOP (excluding the State Clearinghouse and the County Clerk).

Table 2-1. Scoping Comment Summary

Summary of Comment	EIR Section Considered
California Department of Forestry and Fire Protection (CAL FIRE), San Mateo-Santa Cruz Unit	
If commercial tree species (ponderosa pine, Douglas fir, or coast redwood) would be removed as part of the Proposed Project, a timber harvest plan, timberland conversion permit, or conversion exemption would be required prior to the cutting of any commercial tree species.	Section 4.2, Impacts Found Not to be Significant Section 4.4, Biological Resources
Though not required, CAL FIRE recommends creation of 100 feet of defensible space around project infrastructure to provide protection during wildfire.	Section 4.2, Impacts Not Found to be Significant Section 4.9, Hazards and Hazardous Materials
Care should be taken to prevent the spread of Sudden Oak Death during tree removal.	Section 4.4, Biological Resources
Native American Heritage Commission (NAHC)	
Description of regulations requiring consultation with Native American tribes and recommendation to initiate consultation as early as possible.	Section 4.5, Cultural Resources and Tribal Cultural Resources Appendix D, Cultural Resources Inventory, Evaluation, and Finding of Effect Report
List of NAHC recommendations for cultural resources assessments.	Section 4.5, Cultural Resources and Tribal Cultural Resources Appendix D, Cultural Resources Inventory, Evaluation, and Finding of Effect Report
Marty Demare	
Request to access the Anadromous Salmonids Habitat Conservation Plan.	Not applicable to EIR scope of analysis. The City responded directly to the commenter.
Tony Hoffman	
Request to have survey stakes and flags removed after project completion.	Not applicable to EIR scope of analysis. The City responded directly to the commenter.
Patrick Orozco (Costanoan Ohlone Rumsen-Mutsen Tribe)	
Request to avoid disturbance to Native American sites SCR 58, 13, 14, 15, 16, and 17.	Section 4.5, Cultural Resources and Tribal Cultural Resources
Robert Vallone	
Confident that the EIR will adequately address all potential environmental issues.	Chapter 4, Environmental Setting, Impacts, and Mitigation Measures
Pleased with the Santa Cruz Water Department's communication, coordination, and collaboration regarding the Proposed Project and beyond.	Not applicable to EIR scope of analysis

2.4.2 Public Review of the Draft EIR

This Draft EIR has been published and circulated for review and comment by the public and other interested parties, agencies, and organizations for a 45-day public review period from September 18, 2020 through November 2, 2020. The Draft EIR will be available for public review during the comment period at the following locations:

- City of Santa Cruz Water Department Engineering Counter, located at 212 Locust Street, Suite C in Santa Cruz, by appointment only.²
- Online at <http://www.cityofsantacruz.com/waterenvdocs>.
- Online at the Santa Cruz Public Library at <https://catalog.santacruzpl.org/polaris/>.

Written comments on this Draft EIR may be submitted to the City of Santa Cruz at the address below or by email to Jessica Martinez-McKinney at jmartinezmckinney@cityofsantacruz.com.

Jessica Martinez-McKinney, Associate Planner II
City of Santa Cruz Water Department
212 Locust Street, Suite C
Santa Cruz, CA 95060

The City of Santa Cruz encourages public agencies, organizations, community groups, and all other interested persons to provide written comments on the Draft EIR prior to the end of the public review period. Two public meetings in the format of online webinars will be held on October 14, 2020 to provide information on the Proposed Project and take public written comments on the Draft EIR.

CEQA Guidelines Section 15204(a) provides guidance on the focus of review of EIRs, indicating that in reviewing draft EIRs, persons and public agencies “should focus on the sufficiency of the document in identifying and analyzing the possible impacts on the environment and ways in which the significant effects of the project might be avoided or mitigated,” and that comments are most helpful when they suggest additional specific alternatives or mitigation measures that would provide better ways to avoid or mitigate the significant environmental effects. This section further states that “CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commenters. When responding to comments, lead agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR.”

2.4.3 Final EIR and Consideration of Project Approval

Following the close of the public comment period on this Draft EIR, responses will be prepared for all comments received that raise CEQA-related environmental issues regarding the Proposed Project. The Final EIR will include written responses to comments received in accordance with CEQA Guidelines Section 15088 and will also include any text changes to Draft EIR that become necessary after consideration of public comments.

The Final EIR will be presented to the Santa Cruz City Council for a final decision on the Proposed Project. Prior to making a decision to approve a project, the City Council must certify that it has reviewed and considered the information in the EIR, that the EIR has been completed in conformity with the requirements of CEQA, and that the document reflects the City’s independent judgment.

² Due to the 2019 novel coronavirus disease (COVID-19) pandemic, in-person review of hard copies requires advance appointments, which can be made Monday through Thursday, 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:00 p.m. Please email waterengineering@cityofsantacruz.com or call (831) 420-5210 to schedule an appointment.

Pursuant to Sections 21002, 21002.1, and 21081 of CEQA and Sections 15091 and 15093 of the CEQA Guidelines, no public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant effects unless both of the following occur:

- (a) The public agency makes one or more of the following findings with respect to each significant effect:
 - (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects on the environment.
 - (2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by such other agency.
 - (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternative identified in the environmental impact report.
- (b) With respect to significant effects which were subject to a finding under paragraph (3) of subdivision (a), the public agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.

Although the Draft EIR must provide information regarding the significant effects of the proposed project, must identify the potentially feasible mitigation measures, and provide alternatives for consideration by the decision-making body as described in Section 2.1, Purpose of the EIR, above, the decision to adopt a project must take into account the findings described above, especially regarding feasibility, based on the entirety of the agency's administrative record as it exists after completion of a Final EIR.

2.4.4 Adoption of Mitigation Monitoring and Reporting Program

CEQA requires that a program to monitor and report on mitigation measures be adopted by a lead agency as part of the project approval process. CEQA requires that such a program be adopted at the time the agency approves a project or determines to carry out a project for which an EIR has been prepared to ensure that mitigation measures identified in the EIR are implemented. The Mitigation Monitoring and Reporting Program will be included in the Final EIR.

2.5 Use of the EIR

This EIR is an informational document for decision makers. The EIR includes a “project-level” analysis, meaning that no additional CEQA review should be required if the Proposed Project is approved and constructed without change. Pursuant to CEQA Guidelines Section 15161, the EIR examines all phases of the Proposed Project including construction and operation.

The City of Santa Cruz is the lead agency and responsible for approving and implementing the Proposed Project. CEQA requires that decision makers review and consider the EIR in their consideration of this Proposed Project, as noted in Section 3.8, Project Permits and Approvals.

2.6 Organization of the EIR

The content and format of this EIR are designed to meet the requirements of CEQA and the CEQA Guidelines (Sections 15122 through 15132). This EIR is organized into the following chapters:

- **Chapter 1, Summary**, presents an overview of the Proposed Project, provides a summary of the impacts of the Proposed Project and mitigation measures, provides a summary of the alternatives being considered, includes a discussion of known areas of controversy, and any issues to be resolved.
- **Chapter 2, Introduction**, explains the CEQA process, and describes the scope and purpose of this EIR, provides information on the review and approval process, and outlines the organization of this EIR.
- **Chapter 3, Project Description**, provides information about the location, setting, and background of the Proposed Project; identifies project-specific objectives; and provides a detailed description of the Proposed Project components and its construction and operation.
- **Chapter 4, Environmental Setting, Impacts, and Mitigation Measures**, explains the approach to the environmental analysis for this EIR and provides the environmental setting, impacts, and mitigation measures for the topics identified for detailed analysis in the EIR. Section 4.1, Introduction to Analysis, includes a description of the cumulative condition, and Section 4.2, Impacts Not Found to Be Significant, describes the topics that do not warrant further analysis. For the subsequent sections pertaining to the environmental resource topics for which a detailed analysis is provided, each section presents information in three parts, including existing conditions, regulatory framework, and impacts and mitigation measures. See Section 4.1 for additional information about the organization and content of this chapter.
- **Chapter 5, Other CEQA Considerations**, evaluates the topics required to be included in an EIR, including significant and unavoidable impacts, significant irreversible environmental changes, and growth-inducing impacts.
- **Chapter 6, Alternatives**, evaluates alternatives to the Proposed Project that would eliminate or substantially reduce significant impacts identified in the EIR while reasonably attaining project objectives. Alternatives that were reviewed but eliminated from further consideration in the EIR are also discussed.
- **Chapter 7, List of Preparers**, identifies individuals who were involved in preparing this EIR.
- **Appendices** contain additional information used in preparing this EIR. Appendix A contains the NOP and the comments that were submitted in response to the NOP. Appendix B includes a summary of construction phases, estimated workers and vehicle trips, and construction equipment, as well as the results of the air quality and greenhouse gas emissions modeling conducted for the Proposed Project. Appendix C contains the Biological Resources Assessment prepared for the Proposed Project. Appendix D contains the Cultural Resources Inventory, Evaluation, and Finding of Effect Report prepared for the Proposed Project. Appendix E includes results of the noise modeling conducted for the Proposed Project. Appendix F includes estimated vehicle trip generation during the peak construction period.