



**RESOLUTION ADOPTING A MITIGATED NEGATIVE DECLARATION AND
INITIAL STUDY FOR THE ORESTIMBA CREEK RECHARGE AND RECOVERY
EXPANSION PROJECT**

WHEREAS, an Initial Study pursuant to the provisions of the California Environmental Quality Act (CEQA) has been prepared for that project known generally as the Orestimba Creek Recharge and Recovery Expansion Project by the project proponents, Central California Irrigation District (CCID) and Del Puerto Water District (DPWD), which includes the preferred alternative of constructing facilities for diversion of Orestimba Creek flows and other available water supplies and conveying them to recharge ponds, and construction of recovery wells and other related infrastructure; and

WHEREAS, Central California Irrigation District is the lead agency and DPWD is a responsible agency under CEQA and the National Environmental Policy Act (NEPA); and

WHEREAS, the Initial Study pursuant to CEQA and NEPA has been made available to responsible agencies, trustee agencies and interested parties for preliminary review; and

WHEREAS, the Initial Study and Checklist considered alternatives to the project including a no-action alternative, and the Initial Study and Checklist identified mitigation measures that could reduce any potentially significant environmental impacts below the level of significance; and

WHEREAS, both published and posted notice was provided of the opportunity for both public agencies and private parties to provide for further comments, inquiries and suggested further or different mitigation measures, and more than 30 days have elapsed since the posting of that notice by the lead agency; and

WHEREAS, any comments made have been responded to, and the Board of Directors of Del Puerto Water District has found that the responses to those comments provide a full and meaningful response to the comments made, and any public agency which commented has received notice of the public hearing conducted by the lead agency; and

WHEREAS, the Initial Study and Mitigated Negative Declaration identified the mitigation measures described in Exhibit "A" attached hereto and incorporated herein as if set

forth in full, and the monitoring process for those mitigation measures to ensure that those mitigation measures are implemented and effective; and

WHEREAS, the District has therefore proposed to adopt a CEQA Mitigated Negative Declaration for the Project.

NOW THEREFORE, the Board of Directors of Del Puerto Water District does hereby find and declare as follows:

1. The Board of Directors does adopt the Mitigated Negative Declaration for the Project pursuant to CEQA.

2. The Board of Directors has reviewed the proposed Project, Initial Study, Mitigated Negative Declaration, and other information provided by CCID as the lead agency, District staff and its consultants. On the basis of this information and the whole record before the District, the Board hereby finds and determines as follows:

a. The Findings in the foregoing recitals are true and correct.

b. The Initial Study and Mitigated Negative Declaration reflect the District's independent judgment and analysis.

c. Although the Project could have a significant effect on the environment without mitigation, there will not be a significant effect because appropriate mitigation measures have been put in place, which are described in the Mitigated Negative Declaration and are hereby adopted, together with the Mitigation Monitoring and Reporting Program (MMRP) described therein, by the District. All of the mitigation measures set forth in the MMRP shall be implemented by the project proponents as conditions of approval for the Project.

d. Adoption of the MMRP incorporated into the conditions of approval from the Project shall constitute fulfillment of the CEQA monitoring/ and or reporting requirement set forth in Section 21081.6 of CEQA. All proposed mitigation measures are capable of being fully implemented by CCID and DPWD.

e. There is no substantial evidence, in light of the whole record in front of the District, that the Project may have a significant effect on the environment.

3. The Mitigated Negative Declaration, the Initial Study, all comments and responses to comments, this Resolution Adopting Mitigated Negative Declaration and Mitigation Measures and Mitigation Monitoring and Reporting Program, and all other public reports, documents, studies, memoranda, maps, or other planning documents relating to the Project and

the Mitigated Negative Declaration prepared by CCID and DPWD, consultants to the Districts, or responsible or trustee agencies shall be maintained within the custody of the Secretary of Del Puerto Water District and shall constitute the record of proceedings upon which this resolution is based, and the reporting on the monitoring of the conditions of approval to mitigate or avoid significant environmental effects shall be maintained and retained by the custodian.

4. The Notice of Determination shall be executed by the Secretary of Del Puerto Water District and filed with the State Clearinghouse and with the Clerk of Stanislaus County within five days from the date of this Resolution, and shall be posted and remain posted for a period of at least 30 days.

AYES:

NOES:

ABSTAIN:

ABSENT:

William Koster, Vice President
Board of Directors of DEL PUERTO
WATER DISTRICT

ATTEST:

Secretary

2.2.8 Environmental Commitments

CCID and DPWD shall implement the environmental protection measures included in **Table 1**.

Table 1 - Environmental Protection Measures and Commitments

Resource	Protection Measure
Biological Resources	Mitigation Measure (Avoidance). The Project should be designed to avoid impacts to the onsite population of spiny-sealed button celery. Avoidance would entail establishing a 20-foot disturbance-free buffer around the population. This buffer would be delineated on the ground with temporary construction fencing.
Biological Resources	Mitigation Measure (Minimization). If complete avoidance is not possible, but some of the plants can be avoided, then a qualified botanist shall identify all avoidance areas and establish buffer zones of sufficient size around these areas to eliminate any unnecessary disturbance to the avoided plants during construction. Furthermore, construction fencing would be placed around the buffer zones, as directed by the botanist.
Biological Resources	Mitigation Measure (Salvage). Areas occupied by this plant species that cannot be avoided would require a salvage effort directed by a qualified botanist. The salvage effort would include the collection of seed and topsoil. Seed would be collected at a time of year when the species is most prolific, and stored in a ventilated container in a cool dry location. Soil would be collected and stockpiled at a nearby location. The stockpiled soil, and then the seed, would be returned to the disturbed area in which it was collected once construction in the area is complete.
Biological Resources	Mitigation Measure (Construction Timing). If feasible, Project elements within 0.5 miles of riparian habitat at the intersection of Bell Road and Orestimba Creek would be constructed outside the Swainson's hawk nesting season, typically defined as March 1-September 15.
Biological Resources	Mitigation Measure (Surveys). If Project elements within 0.5 miles of riparian habitat at the intersection of Bell Road and Orestimba Creek must be initiated between March 1 and September 15, a qualified biologist would conduct surveys for Swainson's hawk nests on and within 1/2 mile of the Project APE following the survey methods and timing prescribed by the Swainson's hawk Technical Advisory Committee (SHTAC) 2000 Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley.
Biological Resources	Mitigation Measure (Avoidance). Should any active nests be discovered in or near proposed construction zones, the biologist would identify a suitable construction-free buffer around the nest. This buffer would be identified on the ground with flagging or fencing, and would be maintained until the biologist has determined that the young have fledged.
Biological Resources	Mitigation Measure (Construction Timing). If feasible, the Project would be implemented outside of the avian nesting season, typically defined as February 1 to August 31.

Resource	Protection Measure
Biological Resources	Mitigation Measure (Preconstruction Surveys). If construction is to occur between February 1 and August 31, a qualified biologist would conduct pre-construction surveys for active bird nests within 10 days prior to the start of construction. The survey area would encompass the site and accessible surrounding lands within 250 feet for nesting migratory birds and 500 feet for raptors (i.e. birds of prey).
Biological Resources	Mitigation Measure (Avoidance of Active Nests). Should any active nests be discovered in or near proposed construction zones, the biologist would identify a suitable construction-free buffer around the nest. This buffer would be identified on the ground with flagging or fencing, and would be maintained until the biologist has determined that the young have fledged and are capable of foraging independently.
Cultural Resources	<p>In the event that previously unidentified subsurface deposits believed to be cultural or human in origin are discovered during implementation of this undertaking, then all work must halt within a 50-foot radius of the discovery. Reclamation Cultural Resource Staff would be notified and would follow the procedures for post-review discoveries on Federal lands as described in the regulations at 36 CFR § 800.13(b).</p> <p>A qualified professional archaeologist, meeting the Secretary of the Interior's Professional Qualification Standards for prehistoric and historic archaeologist, shall be retained to evaluate the significance of the find on non-Federal lands, and shall have the authority to modify the no-work radius as appropriate, using professional judgment. The following notifications shall apply, depending on the nature of the find:</p> <ol style="list-style-type: none"> 1. If the professional archaeologist determines that the find does not represent a cultural resource, then work may resume immediately and no agency notifications are required. 2. If the professional archaeologist determines that the find does represent a cultural resource from any time period or cultural affiliation, then he or she shall immediately notify the Bureau of Reclamation and applicable landowner. The agency shall consult on a finding of eligibility and implement appropriate treatment measures if the find is determined to be eligible for inclusion in the NRHP. Work cannot resume within the no-work radius until the lead agencies, through consultation as appropriate, determine that the site either: 1) is not eligible for the NRHP; or 2) that the treatment measures have been completed to their satisfaction.
Cultural Resources	<p><u>Human Remains</u></p> <p>Different laws govern the disposition of human remains inadvertently discovered on private, State, Tribal, and Federal lands. It is, therefore, imperative that Reclamation contractors, and other CRM contractors, understand the ownership status of lands on which archaeological work is to be conducted to ensure that the appropriate laws are followed. The following summarizes of the applicable laws that govern the inadvertent (i.e. unplanned) discovery of human remains and the procedures to be</p>

Resource	Protection Measure
	<p>followed should human remains be discovered during the course of archaeological work permitted by Reclamation or other underlying landowner.</p> <p><u>Federal and Tribal Lands</u> Under the Native American Graves Protection and Repatriation Act (NAGPRA) (25 USC 3001) and implementing regulations 43 CFR Part 10, Reclamation is responsible for the protection of Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony that are discovered on Reclamation lands. All human remains and potential human remains must be treated with respect and dignity at all times. In the event that suspected human remains are discovered during proposed project activity on Reclamation land, all activities in the immediate area will cease, and appropriate precautions will be taken to protect the remains and any associated cultural items from further disturbance. Reclamation will follow the procedures outlined in 43 CFR § 10.4 Inadvertent Discoveries. The Reclamation Region 10 Cultural Resource Officer will be immediately notified by telephone and will take responsibility for the discovery by contacting the appropriate law enforcement and Reclamation officials. Within three (3) working days of confirmation of the discovery [see 43 CFR Part 10.4(d)(1)(iii)], the Regional Archaeologist will notify by telephone or in person, with written confirmation, the Indian tribes likely to be affiliated with the discovered human remains (e.g., lineal descendant, culturally affiliated Indian tribe, Indian tribe with other cultural relationship, and Indian tribe that aboriginally occupied area). Treatment and handling of the remains will be determined through consultation between Reclamation and consulting tribes.</p> <p><u>Other Public and Private Lands in California</u> There are numerous California State laws and codes that direct the preservation of prehistoric and historic cultural resources, establish the procedures for protecting inadvertently discovered Native American human remains, and impose penalties and punishments for persons acting in violation of the legal code. Specifically, Section 7050.5 of the California Health and Safety Code deals with the discovery of human remains in any location other than a dedicated cemetery and directs that in such cases the coroner of the county in which the remains are discovered be contacted and further excavation or disturbance in the location of discovery be discontinued until the coroner has examined the remains and made recommendations concerning their treatment and disposition. If the coroner determines that the remains are not subject to his or her authority and if the coroner recognizes the human remains to be those of a Native American, or has reason to believe that they are those of a Native American, the coroner is required to contact the California Native American Heritage Commission (NAHC), by telephone, within 24 hours. Stipulations encouraging private landowners to work with the NAHC and the most likely descendant identified by the NAHC to establish and carry</p>

Resource	Protection Measure
	out appropriate treatment of the remains are outlined in Section 5097.98 of the California Public Resources Code.
Cultural Resources	If construction is conducted within 1,500 feet of the cemetery, a qualified archaeologist shall be present during ground-disturbing activities.

Environmental consequences for resource areas assume the measures specified would be fully implemented.

Notice of Determination

Appendix D

To:

Office of Planning and Research
U.S. Mail: P.O. Box 3044
Sacramento, CA 95812-3044
Street Address: 1400 Tenth St., Rm 113
Sacramento, CA 95814

County Clerk
County of: Stanislaus
Address: 1021 I St Suite 101
Modesto, CA 95354

From:
Public Agency: Del Puerto Water District
Address: PO Box 1596
Patterson, CA 95363
Contact: Anthea Hansen
Phone: (209) 892-4470

Lead Agency (if different from above):
Central California ID (CCID)
Address: 1335 W. I Street
Los Banos, CA 93635
Contact: Benjamin Fenters
Phone: (209) 826-1421

SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

State Clearinghouse Number (if submitted to State Clearinghouse): 2022010548

Project Title: Orestimba Creek Recharge and Recovery Expansion Project

Project Applicant: Central California Irrigation District

Project Location (include county): Newman, Stanislaus

Project Description:

Please see attached Project Description

This is to advise that the Del Puerto Water District (DPWD) has approved the above (Lead Agency or Responsible Agency)

described project on (date) and has made the following determinations regarding the above described project.

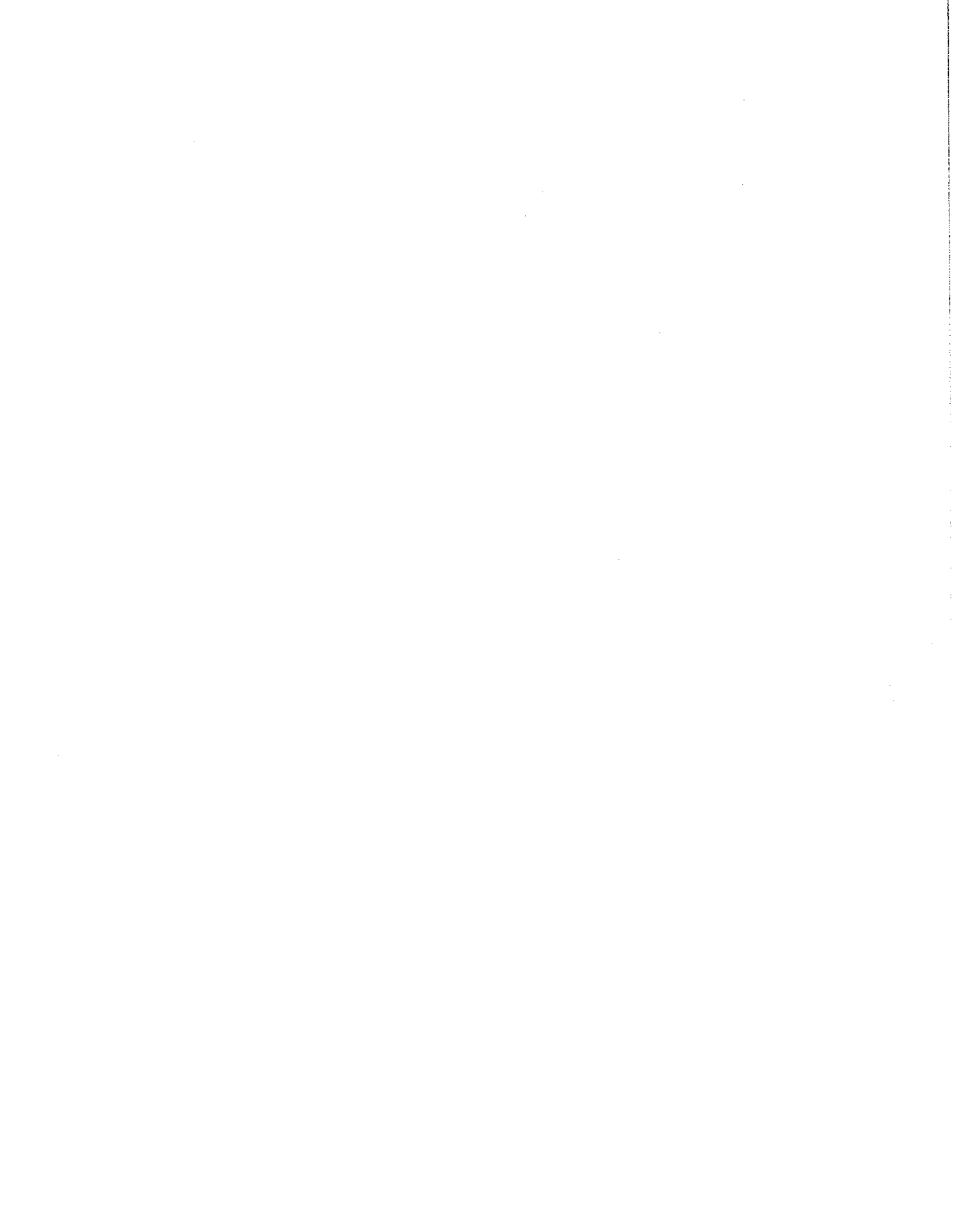
- 1. The project will not have a significant effect on the environment.
2. A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures were made a condition of the approval of the project.
4. A mitigation reporting or monitoring plan was adopted for this project.
5. A statement of Overriding Considerations was adopted for this project.
6. Findings were made pursuant to the provisions of CEQA.

This is to certify that the final EIR with comments and responses and record of project approval, or the negative Declaration, is available to the General Public at:

Central California Irrigation District Office, 1335 W. I. Street, Los Banos, CA 93635

Signature (Public Agency): Title:

Date: Date Received for filing at OPR:



Project Title

Orestimba Creek Recharge and Recovery Expansion Project (Project)

Purpose and Need for the Proposed Action/Project Objectives

The State of California is currently experiencing unprecedented water management challenges due to severe drought in recent years. Both the State and Federal water projects are forecasting very low storage conditions in all major reservoirs. In addition, south of Delta Central Valley Project (CVP) contractors frequently experience reduced water supply allocations due to hydrologic conditions and/or regulatory requirements.

During dry periods, when surface water supplies are scarce, growers rely on groundwater or other sources of supply to meet their irrigation needs. Excessive groundwater pumping strains aquifers that are already in a state of overdraft, dropping the water level in some wells substantially and causing other wells to go dry. Additional constraints under California's Sustainable Groundwater Management Act (SGMA) and the applicable Groundwater Sustainability Plan(s) (GSP) that apply to CCID and DPWD may limit the amount of groundwater pumping available, further reducing water supplies when they are most needed. As such, water purveyors, such as CCID and DPWD, need to find alternative sources of water to fulfill existing demands to stave off substantial impacts to crop production, the regional economy, loss of jobs, disadvantaged communities, etc. The purpose of the Proposed Action/Project is to provide a long-term solution to support regional agricultural operations by using excess storm and floodwaters with the objective to recharge groundwater supplies for future extraction with a 10% leave behind that would also help to prevent subsidence and reduce groundwater basin overdraft.

Proposed Action/Project

Under the Proposed Action/Project Reclamation would issue a land use authorization to CCID for the installation, operation, and maintenance of facilities on Reclamation land as described in more detail below. In addition, CCID and DPWD propose to construct various infrastructure and recharge ponds that would expand the previously constructed Pilot Project.

The Proposed Action/Project includes five main components: (1) Securing a temporary and permanent water rights from Orestimba Creek, (2) Constructing diversion facilities and pipelines between Orestimba Creek, the DMC, and the recharge ponds, (3) Constructing recharge ponds (4) Developing recovery wells and associated pipelines, and (5) Conducting geotechnical and soil investigations to help determine the final design and delineate aquatic resources. In addition to the main components, staging areas for loading, unloading, and temporary storage of equipment and materials would be delineated within the work area boundaries. Maintenance would be done semi-annually. Maintenance activities include the removal of sediment, vegetation, and other materials to improve percolation capacity.

Sources of Recharged Water

Central California Irrigation District.

CCID in conjunction with the other members of the Exchange Contractors, would generate up to 16,500 AFY for recharge when supplies are available. The 16,500 AFY is comprised of existing water rights and the potential Water Right being pursued as part of the Proposed Action/Project. Supplies would consist of a combination of water from various sources such as conserved water, storm water and flood flows from adjoining watersheds for placement in the recharge ponds. The conserved water would be generated pursuant to the "Water Transfer Program for the San Joaquin River Exchange Contractors, 2014 – 2038", approved by Reclamation in a Record of Decision dated July 30, 2013. In addition, diversion of up to 35 cfs of Orestimba Creek storm flows is a potential source of water to be captured and delivered into the recharge ponds, as well as flood flows (through exchange via the DMC) from both the San Joaquin and Kings Rivers. The Proposed Action/Project is sized for recovery in two dry years and recharge in one wet year per 10 years. CCID may have 8 years of recharge to

develop the account to draw from in the two dry years. However, the Project design is based on one wet year per 10 years to achieve storage sufficient for recovery in two dry years.

Del Puerto Water District.

The DPWD is under contract with Reclamation for its water supply, which is delivered from the DMC, a feature of the Central Valley Project (CVP). The contract provides for the delivery of up to 140,210 AFY. DPWD will develop and provide up to 16,500 AFY for recharge when supplies are available. The 16,500 AFY will be made available from its contract supplies and will be generated through DPWD's use of various conservation and water resources projects to make the project water available in certain year types. These include DPWD's water conservation program, DPWD's program to generate water for its own use and for use by the local refuges through several existing contracts with Reclamation to develop CVPIA Level 2 (L2) supplies (GWD Exchange/Volta Wells Exchange and the North Valley Regional Recycled Water Program (NVRWP)), as well as the use of non-CVP supplies developed under the terms and conditions of various Warren Act contracts. The DPWD also has several existing contracts with Reclamation which support the development of Incremental Level 4 (ILA) Central Valley Project Improvement Act (CVPIA) water supplies for Reclamation's Refuge Water Supply Program in exchange for the delivery of CVPIA Level 2 (L2) supplies for DPWD's use (NVRWP/GWD Exchange/Volta Wells Exchange), as well as access to non-CVP supplies developed under the terms and conditions of various Warren Act contracts. These sources, as well as the use delivery of Section 215 water directly to the Proposed Action/Project when made available by Reclamation, would allow DPWD to generate up to 16,500 AFY of supply. Additionally, diversion of up to 35 cfs of Orestimba Creek storm flows is a potential source of water to be recharged in the Proposed Action/Project. It is assumed that there would be two dry years and one wet year per recharge and recovery cycle.