

***AGENDA OF DECEMBER 5, 2012***

***REGULAR MEETING***

**TO:** Ron Briggs, Chair, and  
Members of the El Dorado County Local Agency Formation  
Commission

**FROM:** José C. Henríquez, Executive Officer

**PREPARED BY:** Erica Sanchez, Policy Analyst

**AGENDA ITEM #8:** Shingle Springs Rancheria Reorganization to the El Dorado  
Irrigation District

**LAFCO Project No.** 2012-04

**PROPONENT:** El Dorado Irrigation District

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**DESCRIPTION OF PROJECT**

The El Dorado Irrigation District (EID) is requesting the detachment and concurrent re-annexation of APN 319-100-37 (159.25 acres), commonly known as the Shingle Springs Rancheria. A map of the reorganization area is included as 'Attachment A' at the end of this report.

**LOCATION**

The subject property, known as the Shingle Springs Rancheria, is located in the Shingle Springs area, on the north side of U.S. Highway 50, approximately 1,000 feet north of the Red Hawk Parkway exit along U.S. Highway 50.

**PURPOSE**

EID is requesting reorganization of the Shingle Springs Rancheria to provide services to the affected territory reflecting current land use and development conditions, consistent with the 2008 MOU between EID and the Shingle Springs Band of Miwok Indians (Attachment C).

**RECOMMENDATIONS**

Staff recommends that the Commission take the following actions:

1. Accept the Environmental Impact Report prepared and certified by EID (Attachment E) as the appropriate environmental document for the proposal and direct staff to file the Notice of Determination with the County Clerk-Recorder in compliance with CEQA and local ordinances implementing the same.
2. Adopt LAFCO Resolution L-2012-12 (Attachment H), detaching the affected territory with a concurrent re-annexation for the provision of water service, adding any additional conditions the Commission finds appropriate and approve the Shingle Springs Rancheria Reorganization to the El Dorado Irrigation District.
3. Waive the Conducting Authority proceedings subject to Government Code §56663 and local policies for this proposal.
4. Direct the Executive Officer to complete the necessary filings and transmittals as required by law.
5. Determine the effective date of the approval of this agreement to be five (5) working days after recordation by the County Recorder of the Executive Officer's Certificate of Completion once the imposed conditions are met.

### **REASON FOR RECOMMENDATION**

This proposal was initiated by EID to comply with a court order to address the conditions in the 1988 annexation of the Rancheria into EID. As explained below, the 1988 annexation is deeply flawed, leading to contentious hearings, lawsuits and other legal clouds hanging over all affected parties. As submitted, the proposal closely follows LAFCO staff's five-year-old recommended process of detaching the Rancheria to undo the 1988 annexation with concurrent re-annexation so that services can be provided at the requested levels. Staff has analyzed the reorganization with consideration of the 28 factors listed in Government Code §56668 (see below) and LAFCO Policies, and concluded that the proposal complies with all requirements under the Cortese-Knox-Hertzberg Act and provides all parties with the proper framework to move forward.

### **BACKGROUND**

The Shingle Springs Rancheria consists of approximately 40 homes, a library, church, tribal center, community center, a residential fire department and Red Hawk Casino. The 278,000 square foot casino facility has 2,000 slot machines, 75 table games, six restaurants, four bars, and 3,000 lighted and covered parking spaces.

Prior to 1987, the Shingle Springs Band of Miwok Indians (Tribe), at the time operating under the name of the Sacramento Verona Band of Homeless Indians, acquired water for the Rancheria residents from EID at out-of-district rates. In 1987, the Tribe and EID entered into an Annexation Agreement to bring the Rancheria into EID's service area. Under the Agreement, EID would "provide water service to Rancheria residents on the same terms as it provides service to any other resident within the District." The Agreement was subject to approval by LAFCO and it did not contain references to the amount of water being sought by the Tribe.

The 1988 LAFCO annexation petition was initiated by the Tribe. After two hearings, in which the matter was continued, LAFCO approved the annexation on July 1988 (the process was finalized in 1989), but it conditioned its approval by restricting the amount of water EID could provide to the Rancheria. LAFCO authorized EID to supply water to the Rancheria for residential and accessory uses only, and limited the amount to what was necessary to serve a community of no more than 40 residential lots.

### A Flawed Annexation

Please refer to Attachment C for a summary of events that led to this proposal. This application is necessary because working within the confines of the 1988 annexation is problematic. For reasons discussed below, the 1988 annexation itself was deeply flawed. While everyone focuses on the LAFCO conditions that restrict water service, and, therefore, appear to regulate land use, there are three distinct legal issues that cast doubt on the validity of the 1988 annexation. These reasons were outlined in the public workshop held on June 25, 2008 soon after EID entered into a then-new Memorandum of Understanding with the Tribe:

1. Because Native American tribes are considered to have sovereign rights with respect to tribal land, Federal statutory and case law have established that state and local entities have no jurisdiction over tribal lands unless there is a specific waiver of tribal sovereignty. Prior to the LAFCO application, the Tribe and the Bureau of Indian Affairs (BIA) consented to such waiver under the 1987 Annexation Agreement between the Tribe and EID. However, there is no record that the Tribe waived its sovereign immunity with respect to LAFCO or the annexation process, before or during the LAFCO proceedings. Consequently, there is the question whether LAFCO had the proper jurisdiction clearances at the time this agency approved the 1988 annexation.
2. At the July 7, 1988 meeting, the minutes state that LAFCO, the County and the Tribe reached “an agreement” and that the following motion “*represented a good faith agreement between the parties*” (emphasis added). The record states, “This application is unique in that the owners are the United States of America and Sacramento Verona Band of Homeless Indians. The ownership of this parcel presents questions of whether or not this Commission has jurisdiction over a sovereign Indian nation and whether or not the county ordinances apply to the development of property.... [A]lthough LAFCO cannot regulate land use, we do have the right and obligation to protect our public facilities and promote orderly growth.” The motion approved the annexation with the following conditions:
  - “Section 6. The El Dorado Irrigation District shall make water available for residential use only, including accessory uses and for tribal use limited to community facilities, school playgrounds, recreational facilities, a residential home for tribal elders, and community grazing or garden projects.
  - Section 7. The service capability shall be limited to that necessary to serve a community of forty residential lots including the uses listed in Section 6 above.

Section 8. The annexation is subject to all rules, regulations, and policies of the El Dorado Irrigation District.

Section 9. LAFCO shall retain jurisdiction and authority to amend or eliminate Sections 6, 7, and 8 above.”

Recall that the hearing of the 1988 annexation was continued twice before the July 7, 1988 meeting. The record strongly indicates LAFCO would not have approved of the annexation absent the agreement that led to these conditions. While as early as July 20, 1988, the Tribe’s attorney disputed that the parties had reached such an agreement, neither the Tribe nor EID exercised their right to request that the Commission reconsider its decision as allowed under LAFCO law. In other words, the administrative remedy available to the parties was not exhausted even if the restrictions to service contained in the conditions were in dispute.

3. Under Federal law, any agreement entered into by a Native American tribe is subject to review and approval by BIA. The LAFCO approval with its conditions constituted a new agreement, beyond the already-approved 1987 Annexation Agreement the Tribe had with EID. BIA review and approval of the annexation was, therefore, essential after LAFCO action for the annexation to be valid. No record of BIA review and approval of the LAFCO annexation has been found.

Why Not Use the Jurisdiction and Authority Retention Stated in Section 9?

Although the Commission asserted that it retained jurisdiction and authority to amend or eliminate the conditions of approval in Section 9 above, staff has not found any reference either under Cortese-Knox-Hertzberg Act or the Cortese-Knox Act, as LAFCO law was known in the 1980s, that gives LAFCO permanent jurisdiction. Unlike cities and counties that have “implied powers,” case law is clear that LAFCO is limited to those powers specified in law:

"A local agency formation commission, commonly referred to as LAFCO, is a creature of the Legislature and has only those express (or necessarily implied) powers which are specifically granted to it by statute. In short, LAFCO is a public entity created by legislative fiat, and like similarly constituted public entities is a body of special and limited jurisdiction." (*Ceres v. Modesto* (1969) 274 Cal.App.2d 545, 550.)

"A LAFCO 'has only those express (or necessarily implied) powers which are specifically granted to it by statute." (*Community Water Coalition v. Santa Cruz County LAFCO* (2011) 200 Cal.App.4th 1317, 1324 [quoting *Ceres v. Modesto*].)

Consequently, staff does not believe that the power to permanently reserve jurisdiction over a completed annexation is a "necessarily implied" power of LAFCO. In addition, Cortese-Knox-Hertzberg has a process defined for every type of petition that falls under the Commission’s jurisdiction. Because there is no “necessarily implied” power for LAFCO to revisit already-adopted conditions, there is no mechanism under Cortese-Knox-Hertzberg that outlines how such a request should be processed in instances where a Certificate of Completion has been filed. If EID had submitted a request consistent with Section 9, LAFCO staff would not have known what to do with it since LAFCO law is silent on the matter.



### Summary of Proposal

For these reasons, a reset button must be pressed. It is necessary for the Commission to act first to detach the Rancheria from the EID service area in order to undo the 1988 annexation, which for the reasons outlined above is deeply flawed. Should the Commission accept staff's recommendation, every aspect of the 1988 Rancheria annexation is revoked so that no piece carries over.

The application also includes a request for a concurrent and simultaneous re-annexation of the Rancheria to bring it into the EID service area. This will ensure that water is supplied in harmony with a memorandum of understanding between the District and the Tribe and based on the Tribe's current need.

The submitted application is consistent with the outline LAFCO staff presented to EID and the Tribe in 2007. As structured, this proposal removes all known legal issues with the 1988 annexation:

- The detachment reverses the 1988 annexation and all subsequent issues described above, providing a clean slate for all parties.
- The concurrent and simultaneous re-annexation allows for water service to be provided to the Rancheria at the levels required for the current land use and without interruption. This annexation includes an analysis of impacts to the District under the current and likely service demands as they are known and understood.
- EID is the applicant, as allowed under Government Code §56650 et seq. and as directed by the El Dorado Superior Court, which removes questions about sovereign immunity and any post-LAFCO action BIA review.
- The application has been processed under the provisions specified in the Cortese-Knox-Hertzberg Act just like any other petition that comes to the Commission. There is no reliance on the idea that LAFCO has or can retain permanent jurisdiction to oversee a completed annexation, an idea that is of uncertain legality.
- Should the Commission reject this proposal, the 1988 annexation with all of its legal uncertainties remains in effect. Because the restrictions would still be in place, and assuming EID or any other party does not ask for reconsideration, the likely result would be litigation, initiated by either the Tribe or EID, seeking judicial relief from the 1988 conditions. The rulings from El Dorado Superior Court and the Third District Appellate Court essentially state that EID or the Tribe can seek this course of action should the Commission reject the petition.

### The Long Road

As noted above and in the Summary, the proposal was first presented to EID and the Tribe in 2007. EID and the Tribe declined at the time to seek a concurrent detachment and annexation, preferring to proceed under a Memorandum of Understanding adopted in 2008.

An organization called Voices for Rural Living sued EID over the MOU and as part of its 2009 decision on the matter the El Dorado Superior Court ruled that EID does not have the authority to render a LAFCO decision invalid. This ruling was recently upheld in 2012 by the Third District Court of Appeal. After the December 2009 court decision,

EID and representatives from the Tribe met with LAFCO staff to resume negotiations in March 2010. The culmination of those negotiations, carried across 27 months, resulted in this application.

**CEQA**

El Dorado Irrigation District, as the Lead Agency for the project, prepared and certified an Environmental Impact Report (EIR) for the project on May 29, 2012. The environmental impacts of the reorganization were addressed within the scope of this environmental document. The EIR includes mitigation measures as necessary to lessen the potential significant effect that the project could have on the surrounding area. EID’s EIR can be reviewed in its entirety as Attachment E. LAFCO staff analysis of these issues can be found within the corresponding 28 factors to be considered.

**SUMMARY OF STATUTORY AND POLICY CONSIDERATIONS**

Government Code §56668 and LAFCO Policies require that the review of a proposal shall consider the following 28 factors:

<b>FACTOR TO CONSIDER</b>	<b>POLICY / STATUTE CONSISTENCY</b>	<b>COMMENT</b>
Need for organized services, probable future needs	1 – Consistent	The reorganization will reverse the 1988 annexation, while still allowing for uninterrupted water service to the Rancheria, consistent with the 2008 MOU between the Tribe and EID.
Ability to serve, level and range of service, time frames, conditions to receive service	2 – Consistent	EID has the necessary water and capacity to continue to provide water service to the Rancheria. Upon approval of the reorganization, EID will continue to provide uninterrupted water service to the Rancheria.
Timely availability of adequate water supply	3 – Consistent	An estimated total of 260.75 EDUs are required to serve the Rancheria. According to the 2012 WRSRR and the analysis in the 2011 WSA, EID has sufficient water available to continue serve the Rancheria.

<p>Alternatives to service, other agency boundaries, and local gov't structure</p>	<p>4 – Consistent</p>	<p>EID is the only public water service provider for the subject area and has provided residential water to the Rancheria since 1988 and water for Red Hawk Casino since 2008.</p>
<p>Significant negative service Impacts</p>	<p>5 – Consistent</p>	<p>There do not appear to be any negative service impacts to other existing EID customers as a result of providing water service to the Rancheria.</p>
<p>Coordination of applications</p>	<p>6 – Inconsistent</p>	<p>In 2010, LAFCO staff recommended that ECF request a concurrent sphere amendment and annexation or an out-of-agency service agreement, but ECF declined. No other services appear to be necessary for the Rancheria. Nevertheless, staff does not recommend that action be taken on the fire services issue concurrent with this proposal.</p>
<p>Present cost/adequacy of governmental services, including public facilities</p>	<p>7 – Consistent</p>	<p>EID does not appear to have any current service deficiencies from providing water service to the Rancheria; there is no reason to believe that reorganization would result in any negative cost or service impacts to present customers.</p>
<p>Effect of proposal on cost &amp; adequacy of service in area and adjacent areas</p>	<p>8 – Consistent</p>	<p>The Tribe has entered into a MOU for services with EID, which will presumably cover the cost of providing services to the Rancheria.</p>

Effect of alternative courses of action on cost & adequacy of service in area and adjacent areas	9 – Consistent	Since water service has been provided to the Rancheria at current levels for several years without detriment to other customers or to the surrounding area, staff does not believe that continuing service to the Rancheria would have an adverse effect on other existing customers.
Sufficiency of revenues, per capital assessed valuation	10 – N/A	The parcel is non-taxable tribal land with an assessed value of \$0. There will be no monetary change to any of the affected agencies.
Revenue producing territory	11 – N/A	This section is not applicable to this reorganization application.
56668.3 “best interest”	12 – Consistent	Detachment and concurrent re-annexation into EID is the best option to reverse the flawed 1988 annexation while still allowing for uninterrupted water service to the Rancheria, consistent with the 2008 MOU between the Tribe and EID.
Boundaries: logical, contiguous, not difficult to serve, definite and certain	13 – Consistent	The proposed detachment and concurrent annexation will not have a real effect on the EID service boundary.
Topography, natural boundaries, drainage basins, land area	14 – Consistent	There are no topographical features that will hinder service to this area.
Creation of islands, corridors, irregular boundaries	15 – Consistent	The reorganization will result in an identical service boundary for EID as what currently exists.

Conformance to lines of assessment, ownership	16 – Consistent	The boundaries of the proposed reorganization conform to the existing lines of assessment and ownership. The proposal maps have been reviewed by the County Surveyor and have been found to be definite and certain.
Spheres of Influence	17 – Consistent	The boundaries of the parcel proposed for detachment and concurrent re-annexation are fully contained within the EID sphere of influence.
Effect on adjacent areas, communities of interest	18 – Consistent	The adjacent gated Grassy Run community, which is fully within EID's service area, is not expected to be affected by the proposed reorganization.
Information or comments from landowners or owners	19 – Consistent	The Bureau of Indian Affairs (BIA) has provided written consent to LAFCO in support of the reorganization.
Effect on other community services, schools	20 – N/A	There are no negative impacts expected for the other public service providers to the Rancheria property.
Other agency comments, objections	21 – Consistent	There were no comments received regarding the proposed reorganization from other agencies or members of the public.
Fair share of regional housing needs	22 – N/A	The reorganization is not expected to contribute to, nor hinder, the County in achieving its fair share of regional housing needs.

Land use, information relating to existing land use designations	23 – N/A	As a tribal reservation, the Rancheria is not subject to local land use designations and is not required to conform to surrounding land uses or to the County’s General Plan. Current land use within the Rancheria is consistent with the Indian Gaming Regulatory Act.
Population, density, growth, likelihood of growth in, and in adjacent areas, over 10 years	24 – N/A	Reorganization of the Rancheria within the EID service boundary will not directly or indirectly induce growth.
Proximity to other populated areas	25 – Consistent	The Rancheria parcel is substantially surrounded by low density residential 5-acre parcels that are mostly built-out; the gated Grassy Run neighborhood borders the Rancheria to the north and east. The reorganization of the Rancheria parcel will have no effect on service provision to the surrounding areas.
Consistency with General Plans, specific plans, zoning	26 – N/A	The reorganization area is owned by the Shingle Springs Band of Miwok Indians, a federally-recognized Indian Tribe, which is a sovereign entity that is not subject to the El Dorado County General Plan.
Physical and economic integrity of agriculture lands and open space	27 – N/A	The reorganization will have no impact on agriculture or open space.
Optional factor: regional growth goals and policies	28 – N/A	The reorganization proposal does not include any type of new housing or other development; therefore, it will not assist the County in achieving its RHNA goals.

## **DETERMINATIONS**

The Commission should review the factors summarized above and discussed below, then make its own determinations regarding the project. Staff recommends the following determinations based on project research, state law and local policies:

1. The subject territory is “uninhabited” per Government Code §54046. Application for this reorganization is made subject to Government Code §56650 et seq. by District resolution.
2. The territory proposed for reorganization is currently within the El Dorado Irrigation District boundary.
3. The Environmental Impact Report prepared and certified by the El Dorado Irrigation District on May 29, 2012 satisfies the requirements of the California Environmental Quality Act (CEQA).
4. The reorganization will not result in negative impacts to the cost and adequacy of service otherwise provided in the area, and is in the best interests of the affected area and the total organization of local government agencies.
5. The reorganization will not have an adverse effect on agriculture and open space lands.
6. The reorganization will result in a decrease in water supply available for the buildout of regional housing needs determined by the Sacramento Area Council of Governments. The reorganization will not, however, have a significant foreseeable effect on the ability of the County to adequately accommodate its fair share of those needs.

## **DISCUSSION**

Government Code §56668 and LAFCO Policies require that the review of an annexation proposal shall consider the following factors:

**(Numbered items 1-6 relate to services)**

1. ***NEED FOR ORGANIZED COMMUNITY SERVICES, PROBABLE FUTURE NEEDS:*** Applicants shall demonstrate the need and/or future need for governmental services and that the proposal is the best alternative to provide service (Policies 3.1.4(b), 6.1.7; §56668(b)).

***RESPONSE:*** The proposed detachment of the Shingle Springs Rancheria will reverse the 1988 annexation, which limited EID’s water service to the Tribe to 45 EDUs of water, while the concurrent re-annexation will allow for water service to be provided to the Rancheria at the levels required for the current land use and without interruption, consistent with the 2008 MOU between the Tribe and EID.

2. ***ABILITY TO SERVE, LEVEL AND RANGE OF SERVICE, TIME FRAMES, CONDITIONS TO RECEIVE SERVICE:*** Prior to annexation the applicants and proposed service providers shall demonstrate that the annexing agency will be

capable of providing adequate services which are the subject of the application and shall submit a plan for providing services (Policy 3.3, §56668(j)).

**RESPONSE:** EID has the necessary water and capacity to continue to provide uninterrupted water service to the Rancheria, upon the approval of the proposed detachment and concurrent re-annexation. EID has provided residential water to the Rancheria since the 1988 annexation, and additional water to the casino since its construction in 2008, consistent with the MOU between EID and the Tribe.

Proposed facilities include the installation of a new 3-inch flow meter, 4,025 feet of 12-inch water pipeline, and associated accessories including a backflow prevention assembly structure on the Rancheria to connect with EID's existing water supply infrastructure. No new water supply infrastructure would be installed in the EID service area outside of the Rancheria. Per the language in the EID-Tribe MOU, the Rancheria is subject to water reductions in case of drought.

Since 2008, EID has been providing water to the Rancheria. There is no evidence that providing the increase in water deliveries to the Rancheria has had a negative effect on other customers or on surrounding land uses. The increase in EDUs going to the Rancheria will and has reduced the available water supply that would otherwise be available for new development, other uses specified in the county General Plan or to attain regional housing goals.

- 3. *TIMELY AVAILABILITY OF ADEQUATE WATER SUPPLY:*** The Commission shall consider the timely availability of water supplies adequate for projected needs (§56668(k)).

**RESPONSE:** The 2008 MOU between EID and the Tribe stated that the District would provide the Rancheria with a net increase of 215.75 equivalent dwelling units (EDU) of water over the existing 45 EDUs of water service EID was already providing the Tribe. Therefore, the combined estimated number of EDUs to serve the Rancheria is 260.75.

The Rancheria is within EID's Western/Eastern Water Supply Region, which primarily receives water Jenkinson Lake and Project 184. According to EID's *2012 Water Resources and Service Reliability Report* (August 2012), this service region has 2,000 EDUs of water available, 287 of which have been previously committed through contractual commitments, leaving a total of 1,713 EDUs, which is sufficient to meet the current service needs of the Rancheria.

In 2011, a Water Supply Assessment (WSA) was prepared to analyze EID's ability to provide an increase in annual water service to the Rancheria over pre-project conditions, consistent with the terms and conditions of the 2008 MOU between EID and Rancheria (Attachment F). The WSA evaluates water supplies that are or will be available during normal, single dry and multiple dry water years for 20 years in the future, to meet existing demands, expected demands of the Rancheria, and reasonably foreseeable planned future water demands served by EID. Based on analyses provided in this WSA, the projected EID water supplies available during normal, single dry and multiple dry years will meet the projected water demands for



existing and planned future uses, including those associated with the Rancheria, during the 20-year projection period, including during implementation of multiple-stage demand reduction plans, if necessary.

- 4. ALTERNATIVES TO SERVICE, OTHER AGENCY BOUNDARIES, AND LOCAL GOVERNMENT STRUCTURE:** The Commission shall consider alternatives to the proposal, proximity of other agency boundaries and alternative courses of action. Where another agency objects to the proposal, LAFCO will determine the best alternative for service (Policies 3.3.2.2(g), 6.1.3).

**RESPONSE:** There are no other reasonable public or private alternatives for the provision of water service to the Rancheria. EID is the only public water service provider for the subject area and has provided residential water to the Rancheria since 1988 and water for Red Hawk Casino since 2008. The only other alternatives for water provision are infeasible and would introduce other externalities that would be less desirable from a public policy standpoint. A well would yield inadequate water supplies and trucking water in would result in road wear-and-tear as well as traffic congestion and increased air pollution.

- 5. SIGNIFICANT NEGATIVE SERVICE IMPACTS:** Services provided to the territory will not result in a significant negative impact on the cost and adequacy of services otherwise provided (Policy 6.2.4, §56668.3(b)).

**RESPONSE:** There do not appear to be any negative service impacts to other existing EID customers as a result of providing water service to the Rancheria. LAFCO staff is not aware of any adverse service effects due to the provision of water for the Red Hawk Casino since 2008.

- 6. COORDINATION OF APPLICATIONS:** If a project site can be anticipated to require additional changes of organization in order to provide complete services, the proposal shall be processed as a reorganization (Policy 3.1.10). Where related changes of organization are expected on adjacent properties, petitioners are encouraged to combine applications and LAFCO may modify boundaries, including the addition of adjacent parcels to encourage orderly boundaries (Policy 3.1.9).

**RESPONSE:** The Rancheria is within the Diamond Springs-El Dorado Fire Protection District (DSP); however, the El Dorado County Fire Protection District (ECF) provides fire protection services to the Rancheria through a compensated agreement with the Tribe. In 2010, DSP initiated a proposal to detach the Rancheria, but DSP later withdrew the proposal. LAFCO staff recommended that ECF join DSP's application to request a concurrent sphere amendment and annexation or an out-of-agency service agreement, but to-date ECF has declined. Nevertheless, staff does not recommend addressing the fire service provision issue with this application.

Wastewater service through EID is not a part of this proposal; the Tribe operates its own wastewater treatment facility. According to the 2008 MOU, the Tribe has agreed to join the EID wastewater service area at a later and undetermined date. No other services appear to be necessary for the Rancheria, and there are no additional properties in the vicinity which appear to require reorganization or additional services at this time.

**(Numbered items 7-12 relate to cost and revenues)**

- 7. PRESENT COST/ADEQUACY OF GOVERNMENTAL SERVICES, INCLUDING PUBLIC FACILITIES:** The Commission shall consider existing government services and facilities, cost and adequacy of such services and facilities (§56668(b), Policy 3.3). If service capacity and/or infrastructure will be expanded, the applicant will submit cost and financing plans (Policy 3.3.2.2).

**RESPONSE:** EID does not appear to have any current service deficiencies from providing water service to the Rancheria, consistent with the 2008 MOU between EID and the Tribe. There is no reason to believe that detachment and re-annexation of the Rancheria would result in any negative cost or service impacts to present customers.

- 8. EFFECT OF PROPOSAL ON COST & ADEQUACY OF SERVICE IN AREA AND ADJACENT AREAS:** The Commission shall consider existing and proposed government services and facilities, the cost and adequacy of such services and facilities and probable effect of the proposal on the area and adjacent areas (§56668(b) and Policy 3.3). LAFCO will discourage projects that shift the cost of service and/or service benefits to others or other service areas (Policy 6.1.8).

**RESPONSE:** The Tribe has entered into a MOU for services with EID, which will presumably cover the cost of services to the Rancheria. According to the MOU, the Tribe purchases water at the regular District Retail Rate, which may be amended as necessary.

- 9. EFFECT OF ALTERNATIVE COURSES OF ACTION ON COST & ADEQUACY OF SERVICE IN AREA AND ADJACENT AREAS:** The Commission shall consider the cost and adequacy of alternative services and facilities (§56668).

**RESPONSE:** Since water service has been provided to the Rancheria at current levels for several years, staff does not believe that continuing service to the Rancheria would have an adverse effect on other existing customers.

- 10. SUFFICIENCY OF REVENUES, PER CAPITA ASSESSED VALUATION:** 56668(j)

**RESPONSE:** APN 319-100-37 is non-taxable because it is tribal land owned by the Bureau of Indian Affairs, held in trust for the Shingle Springs Band of Miwok Indians. Therefore, the total assessed value of the parcel is \$0 and the total local agency share of property tax revenue from the parcel is a percentage of zero.

Though the redistribution of the property tax increment will not have a monetary impact to any local agency at this time, the negotiation of property tax increment is required by Revenue and Taxation Code Sections 99 and 99.01. Therefore, the County and EID negotiated a property tax revenue sharing agreement, based upon the Chief Administrative Officer's proposal (Attachment G), with no changes to any of the affected agencies.

- 11. REVENUE PRODUCING TERRITORY:** The proposed annexation shall not represent an attempt to annex only revenue-producing territory (Policy 6.1.1).

**RESPONSE:** For reasons explained immediately above, this section is not applicable to this reorganization application. The 2008 MOU specifies the rate in which the Tribe purchases water from EID, which presumably covers the cost of service provision.

- 12. "BEST INTEREST":** The Commission shall consider whether the proposed annexation will be for the interest of landowners or present or future inhabitants within the district and within the territory proposed to be annexed to the district (§56668.3).

**RESPONSE:** Detachment and concurrent re-annexation into EID is the best option to reverse the flawed 1988 annexation while still allowing for the provision of water service to the Rancheria at the levels required for the current land use and without interruption, consistent with the 2008 MOU between the Tribe and EID.

(Numbered items 13-17 relate to boundaries)

- 13. BOUNDARIES: LOGICAL, CONTIGUOUS, NOT DIFFICULT TO SERVE, DEFINITE AND CERTAIN:** The proposed boundary shall be a logical and reasonable expansion and shall not produce areas that are difficult to serve (§56001). Lands to be annexed shall be contiguous (Policy 3.9.3, §56741-cities) and should not create irregular boundaries, islands, peninsulas or flags (Policy 3.9.4). The boundaries of the annexation shall be definite and certain and conform to existing lines of assessment and ownership (Policy 3.9.2, §56668(f)).

**RESPONSE:** The proposed detachment and concurrent annexation will not have a real effect on the EID service boundary. The parcel is currently within the EID service boundary and is surrounded on all sides by other parcels within EID.

- 14. TOPOGRAPHY, NATURAL BOUNDARIES, DRAINAGE BASINS, LAND AREA:** Natural boundary lines which may be irregular may be appropriate (Policy 3.9.6). The resulting boundary shall not produce areas that are difficult to serve (Policy 3.9.7).

**RESPONSE:** The 160-acre parcel consists of gently rolling hills with several oak and pine varieties, ranging in elevation from 1,300 to 1,600 feet. There are no topographical features that will hinder service to this area.

15. **CREATION OF IRREGULAR BOUNDARIES:** Islands, peninsulas, "flags", "cherry stems", or pin point contiguity shall be strongly discouraged. The resulting boundary shall not produce areas that are difficult to serve. The Commission shall determine contiguity (Policies 3.9.3, 3.9.4, 3.9.7).

**RESPONSE:** The reorganization will result in an identical service boundary for EID as what currently exists.

16. **CONFORMANCE TO LINES OF ASSESSMENT, OWNERSHIP:** The Commission shall modify, condition or disapprove boundaries that are not definite and certain or do not conform to lines of assessment or ownership (Policy 3.9.2).

**RESPONSE:** The subject parcel is tribal land owned by the Bureau of Indian Affairs, held in trust for the Shingle Springs Band of Miwok Indians.

The boundaries of the proposed reorganization conform to the existing lines of assessment and ownership. The proposal maps have been reviewed by the County Surveyor and have been found to be definite and certain.

17. **SPHERES OF INFLUENCE:** Commission determinations shall be consistent with the spheres of influence of affected local agencies (Policy 3.9.1).

**RESPONSE:** The boundaries of the parcel proposed for detachment and concurrent re-annexation are fully contained within the EID sphere of influence. As a result, there is no need to amend the sphere of influence in connection with this reorganization.

**(Numbered items 18-21 relate to potential effect on others and comments)**

18. **EFFECT ON ADJACENT AREAS, COMMUNITIES OF INTEREST:** The Commission shall consider the effect of the proposal and alternative actions on adjacent areas, mutual social and economic interests and on the local governmental structure of the county (§56668(c)).

**RESPONSE:** The proposed reorganization does not break any Community of Interest. The subject parcel is bounded to the north and east by the gated Grassy Run community formerly known as the Grassy Run CSD, which is also fully within EID's service area. Residents of the Grassy Run community are not expected to be affected by the proposed reorganization.

19. **INFORMATION OR COMMENTS FROM THE LANDOWNER OR OWNERS:** The Commission shall consider any information or comments from the landowner or owners.

**RESPONSE:** The United States Department of the Interior, Bureau of Indian Affairs (BIA) has provided written consent to LAFCO in support of the reorganization. The

BIA owns the land making up the Shingle Springs Rancheria, and holds that property in trust for the Shingle Springs Band of Miwok Indians.

Landowner consent allows the Commission to waive the Conducting Authority hearing, as well as the noticing requirement of neighbors within 300 feet of the project. No comments or protest from neighboring landowners have been received.

- 20. EFFECT ON OTHER COMMUNITY SERVICES, SCHOOLS:** LAFCO's review of services refers to governmental services whether or not those services are provided by local agencies subject to the Cortese-Knox-Hertzberg Act, and includes public facilities necessary to provide those services.

**RESPONSE:** There are no negative impacts expected for the other public service providers to the Rancheria property.

As described in Section #6, the Rancheria is within the Diamond Springs-El Dorado Fire Protection District (DSP); however, the El Dorado County Fire Protection District (ECF) provides fire protection services to the Rancheria through a compensated agreement with the Tribe.

Police Protection services are provided by the El Dorado County Sheriff's Department through a compensated agreement. Response times to the area would depend on the location of the nearest unit at the time of dispatch.

The subject parcels are currently within El Dorado County's Service Area 9, Zone 17 – Ponderosa Recreation Zone for park and recreation services, which is not requested to change as a part of this proposal. The El Dorado County Parks and Recreation Department is responsible for providing recreation areas and parks within the unincorporated areas not in Community Service Districts.

The Rancheria parcel is located within the Mother Lode Union School District, the El Dorado Union High School District and the Los Rios Community College District. Students within the detachment area would most likely attend the following schools: Indian Creek Elementary at 6701 Green Valley in Placerville, Herbert Green Middle School at 3781 Forni Road in Placerville and Ponderosa High School at 3661 Ponderosa Road in Shingle Springs.

- 21. OTHER AGENCY COMMENTS, OBJECTIONS:** All affected and interested agencies are provided application related material and notified of the proposal and proposed property tax redistribution plan. Comments have been requested and shall be considered (Policy 3.1.4 (I), §56668(i)).

For district annexations and city detachments only, the Commission shall also consider any resolution objecting to the action filed by an affected agency (§56668.3(4)). The Commission must give great weight to any resolution objecting to the action which is filed by a city or a district. The Commission's consideration shall be based only on financial or service-related concerns expressed in the protest (§56668.3(5b)).

**RESPONSE:** The following agencies were provided an opportunity to comment on this proposal:

- Shingle Springs Band of Miwok Indians
- Bureau of Indian Affairs, Pacific Regional Office, Central California Division
- Shingle Springs Gaming Authority
- El Dorado County Fire Protection District
- Diamond Springs-El Dorado Fire Protection District
- El Dorado County Emergency Services Authority
- El Dorado Irrigation District
- El Dorado County Representing CSAs 7, 9, 9 Mother Lode Recreation Tax, 10 and 10 Zone H
- El Dorado County Water Agency
- El Dorado County Resource Conservation District
- El Dorado County Department of Agriculture
- El Dorado County Chief Administrative Office
- El Dorado County Office of Education
- Mother Lode Union School District
- El Dorado Union High School District
- Los Rios Community College District
- El Dorado County Planning Department
- El Dorado County Assessor's Office
- El Dorado County Auditor-Controller's Office
- El Dorado County Surveyor's Office
- El Dorado County Elections Department
- El Dorado County Sheriff's Department
- Farm Bureau

The Bureau of Indian Affairs, which is the legal landowner, submitted a letter in support of the reorganization. A letter from the Tribe was also received in support of this proposal. There were no other comments received regarding the proposed reorganization from other agencies or members of the public.

**(Numbered items 22-26 relate to land use, population and planning)**

**22. FAIR SHARE OF REGIONAL HOUSING NEEDS:** The Commission shall review the extent to which the proposal will assist the receiving entity in achieving its fair share of regional housing needs as determined by Sacramento Area Council of Governments (SACOG) (§56668(l)).

**RESPONSE:** The proposed reorganization does not include any type of new housing or other development; therefore, it will not assist the County in achieving its RHNA goals. The reorganization is not expected to contribute to, nor hinder, the County in achieving its fair share of regional housing needs. The only foreseeable impact is a reduction in available water supply; however, such a reduction would still occur in similar developments or in projects of similar size.

- 23. LAND USE, INFORMATION RELATING TO EXISTING LAND USE DESIGNATIONS:** The Commission shall consider any information relating to existing land use designations (§56668(m)).

**RESPONSE:** As a tribal reservation, the Rancheria is not subject to local land use designations and is not required to conform to surrounding land uses or to the County’s General Plan. Current land use within the Rancheria is consistent with the Indian Gaming Regulatory Act.

Existing land uses within the Shingle Springs Rancheria and adjacent properties consist of the following:

	Zoning	General Plan	Current Land Use
Shingle Springs Rancheria (APN 319-100-37):	RE-5	Shingle Springs Rancheria (SSR)	Casino, residential, tribal/church/community/fire facilities; not subject to zoning/land use designations of the General Plan
North:	RE-5	LDR	Residential; gated Grassy Run neighborhood
East:	RE-5	LDR	Residential; gated Grassy Run neighborhood
South:	RE-5	LDR	Residential; US Highway 50
West:	RE-5	LDR	Residential; Shingle Springs Drive
Northwest:	RE-10	LDR	Residential; Shingle Springs Drive

- 24. POPULATION, DENSITY, GROWTH, LIKELIHOOD OF GROWTH IN AND IN ADJACENT AREAS OVER 10 YEARS:** The Commission will consider information related to current population, projected growth and number of registered voters and inhabitants in the proposal area.

**RESPONSE:** Approximately 52 families containing 141 tribal members reside on the reservation. According to the County Registrar of Voters, there are currently no registered voters registered to APN 319-100-37 (5281 Honpie Road, Placerville). The subject territory is currently considered uninhabited per State Law. Reorganization of the Rancheria within the EID service boundary will not directly or indirectly induce growth.

- 25. PROXIMITY TO OTHER POPULATED AREAS:** The Commission shall consider population and the proximity of other populated areas, growth in the area and in adjacent incorporated and unincorporated areas during the next 10 years (Policy 3.1.4 (a)).

**RESPONSE:** The Rancheria parcel is substantially surrounded by low density residential 5-acre parcels that are mostly built-out; the gated Grassy Run

neighborhood borders the Rancheria to the north and east. The reorganization of the Rancheria parcel will have no effect on service provision to the surrounding areas.

- 26. CONSISTENCY WITH GENERAL PLANS, SPECIFIC PLANS, ZONING:** The Commission shall consider the general plans of neighboring governmental entities (Policy 3.1.4(g)).

**RESPONSE:** The reorganization area is owned by the Shingle Springs Band of Miwok Indians, a federally-recognized Indian Tribe, which is a sovereign entity that is not subject to the El Dorado County General Plan.

- 27. PHYSICAL AND ECONOMIC INTEGRITY OF AGRICULTURE LANDS AND OPEN SPACE LANDS:** LAFCO decisions will reflect its legislative responsibility to maximize the retention of prime agricultural land while facilitating the logical and orderly expansion of urban areas (Policy 3.1.4(e), §56016, 56064).

**RESPONSE:** The reorganization area is not considered to be to be “Prime Farmland,” nor does it contain any choice soils. The Rancheria is not used for any formal agricultural operations and there are no agricultural activities adjacent to the site; the Rancheria is surrounded on all sides by Low Density Residential parcels with RE-5 zoning. The reorganization will have no impact on agriculture or open space.

- 28. OPTIONAL FACTOR: REGIONAL GROWTH GOALS AND POLICIES:** The Commission may, but is not required to, consider regional growth goals on a regional or sub-regional basis (§56668.5).

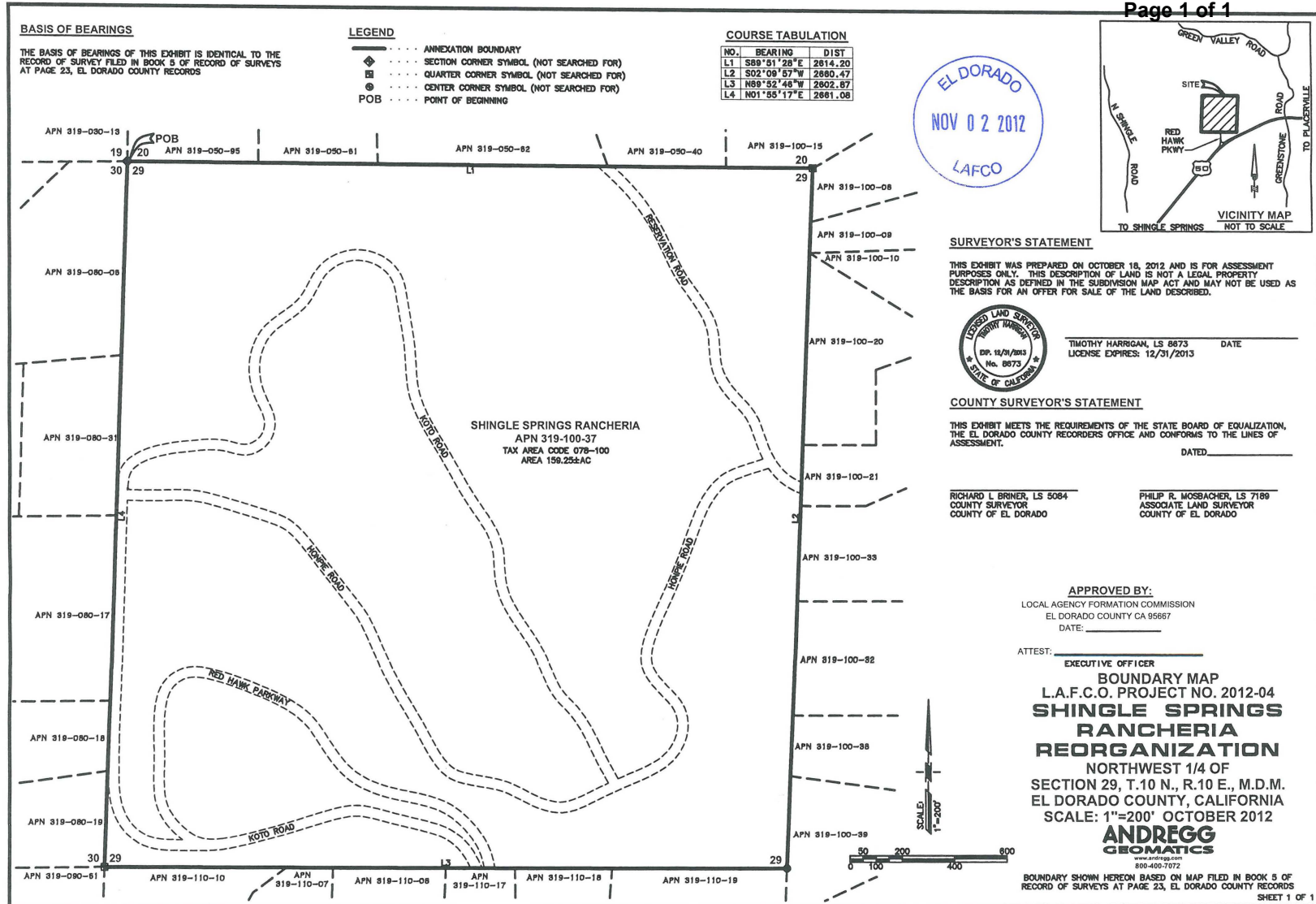
**RESPONSE:** The reorganization proposal does not include any type of new housing or other development; therefore, it will not assist the County in achieving its RHNA goals.

#### ATTACHMENTS

- Attachment A: Reorganization Map
- Attachment B: EID Resolution of Application
- Attachment C: 2008 MOU
- Attachment D: Annexation History
- Attachment E: Environmental Impact Report
- Attachment F: Water Supply Assessment
- Attachment G: BOS Property Tax Redistribution (AB-8) Resolution
- Attachment H: LAFCO Draft Resolution L-2012-12

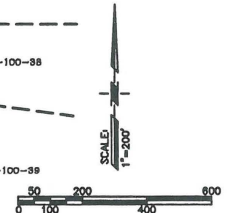


Agenda Item #8  
Attachment A  
Page 1 of 1



RICHARD L. BRINER, LS 5084  
COUNTY SURVEYOR  
COUNTY OF EL DORADO

PHILIP R. MOSBACHER, LS 7189  
ASSOCIATE LAND SURVEYOR  
COUNTY OF EL DORADO





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C. Buckeye Union School District

D. El Dorado Union High School District

e. Request is hereby respectfully made that proceedings be undertaken by LAFCO pursuant to the legal authority cited above for the reorganization proposed herein.

f. The Clerk of the Board is hereby instructed to file a copy of this resolution with the El Dorado County Local Agency Formation Commission.

The foregoing Resolution was introduced at a regular meeting of the Board of Directors of EL DORADO IRRIGATION DISTRICT, held on the 23<sup>rd</sup> day of July 2012, by Director Wheeldon, who moved its adoption. The motion was seconded by Director Fraser, and a poll vote taken which stood as follows:


AYES: Directors Wheeldon, Fraser, Osborne, George, and Day

NOES:

ABSENT:

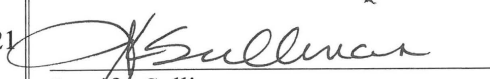
ABSTAIN:

The motion having a majority of votes "Aye", the resolution was declared to have been adopted, and it was so ordered.



Bill George, President  
Board of Directors  
EL DORADO IRRIGATION DISTRICT

ATTEST:

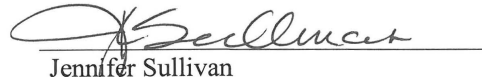


Jennifer Sullivan  
Clerk to the Board  
EL DORADO IRRIGATION DISTRICT

(SEAL)

Resolution No. 2012-015

1 I, the undersigned, Clerk to the Board of EL DORADO IRRIGATION DISTRICT hereby  
2 certify that the foregoing resolution is a full, true and correct copy of a Resolution of the Board of  
3 Directors of EL DORADO IRRIGATION DISTRICT entered into and adopted at a regular meeting  
4 of the Board of Directors held on the 23<sup>rd</sup> day of July 2012.

  
Jennifer Sullivan  
Clerk to the Board  
EL DORADO IRRIGATION DISTRICT

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ATTACHMENT 1

RESOLUTION OF THE BOARD OF DIRECTORS OF  
EL DORADO IRRIGATION DISTRICT

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**WHEREAS**, the Shingle Springs Band of Miwok Indians (“Tribe”) is a federally recognized Native American tribe and the Tribe and its members are existing customers of El Dorado Irrigation District (“EID”); and

**WHEREAS**, the Tribe seeks additional water service from EID for its casino development on the Shingle Springs Rancheria (“Rancheria”) and to provide all other existing on-Rancheria water service through its Tribal Utility District; and

**WHEREAS**, EID has previously denied such requests solely on the basis of conditions imposed by the El Dorado County Local Agency Formation Commission (“LAFCO”) when the Rancheria was annexed to EID’s service area in 1989 for purposes of water service (“LAFCO Restrictions”); and

**WHEREAS**, the LAFCO Restrictions purport to limit the purposes of water service to the Rancheria (residential and tribal uses only) as well as the quantity of such water service (enough to serve a community of forty residential lots); and

**WHEREAS**, in 2004 the Tribe threatened suit against EID, its individual Board members, and its General Manager as a result of EID’s denial of the Tribe’s requests for additional service; and

**WHEREAS**, in lieu of litigation, the parties entered into a Tolling Agreement that has remained continuously in effect thereafter; and

**WHEREAS**, at all times that it denied the Tribe’s requests, EID believed in good faith that the LAFCO Restrictions were legally valid and binding upon EID; and

1           **WHEREAS**, based upon new information and legal analysis presented to it in noticed,  
2 public meetings on April 28, May 12, and May 28, 2008, the EID Board of Directors no longer  
3 believes that the LAFCO Restrictions are legally valid or binding upon EID; and  
4

5           **WHEREAS**, absent the LAFCO Restrictions, EID would evaluate the Tribe's request  
6 identically to any request for service within its jurisdiction, and would grant the request if  
7 sufficient uncommitted water supplies and infrastructure existed under applicable EID Board  
8 Policies, Administrative Regulations, procedures and practices; and  
9

10           **WHEREAS**, to extinguish the threat of litigation, EID and the Tribe have negotiated a  
11 proposed Settlement Agreement/Memorandum of Understanding to resolve all disputes relating  
12 to, and to prescribe the terms and conditions of, the Tribe's purchase of additional water service  
13 from EID;

14           **NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED** by the Board of  
15 Directors of the El Dorado Irrigation District as follows:

16           1.       The Board of Directors finds as a matter of law, under the doctrine of federal  
17 preemption established by the Property and Supremacy Clauses of the United  
18 States Constitution, that the LAFCO Restrictions are not legally valid and are not  
19 binding on EID if the LAFCO Restrictions conflict with or hinder the  
20 achievement of congressionally approved uses of the Rancheria. This finding is  
21 based upon all of the written and oral evidence elicited during and in connection  
22 with the April 28, 2008 and May 12, 2008 public meetings of the Board's Legal  
23 and Legislative Standing Committee and the May 28, 2008 public meeting of the  
24 Board of Directors, specifically including the following evidence:  
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26           a.       Pages 4 through 8 of the April 28, 2008 written staff report;  
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- b. December 5, 2007 memorandum from Paula Yost, Esq. to Amy Dutschke and Carmen Fazio, Bureau of Indian Affairs, attached to that staff report;
  - c. March 5, 2008 memorandum from the United States Department of the Interior, Office of the Solicitor (Pacific Southwest Region) attached to that staff report
  - d. PowerPoint slides presented by EID's General Counsel on April 28, 2008;
  - e. Page 6 of the May 12, 2008 written staff report.
2. The Board of Directors finds as a matter of fact that the LAFCO Restrictions were intended to and/or do conflict with or hinder the achievement of congressionally approved uses of the Rancheria. This finding is based upon all of the written and oral evidence elicited during and in connection with the April 28, 2008 and May 12, 2008 public meetings of the Board's Legal and Legislative Standing Committee and the May 28, 2008 public meeting of the Board of Directors, specifically including the following evidence:
- a. Pages 3 through 4 and 6 through 8 of the April 28, 2008 written staff report;
  - b. October 14, 1987 Annexation Agreement, attached to that staff report;
  - c. Excerpt from April 7, 1988 LAFCO Minutes, attached to that staff report;
  - d. LAFCO Resolution 88-05, attached to that staff report;
  - e. EID Resolution 89-24, attached to that staff report;
  - f. LAFCO Certificate of Compliance, attached to that staff report;
  - g. PowerPoint slides presented by EID's General Counsel on April 28, 2008;
  - h. May 5, 1988 LAFCO minutes;

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- i. June 21, 1988 letter from David J. Rapport, Esq. to Gaby Box, LAFCO Deputy Executive Officer, with six-page enclosure entitled “Statement of Position”;
  - j. June 22, 1988 letter from David J. Rapport, Esq. to Gaby Box, LAFCO Deputy Executive Officer, with three-page enclosure entitled “Ordinance of the Tribal Council of the Shingle Springs Rancheria Adopting Land Use Plan for the Shingle Springs Rancheria”;
  - k. July 7, 1988 LAFCO agenda and staff report for Agenda Item No. V.B.2.;
  - l. July 7, 1988 LAFCO motion;
  - m. July 7, 1988 LAFCO minutes for Agenda Item No. V.B.2.;
  - n. July 20, 1988 letter from David J. Rapport, Esq. to LAFCO;
  - o. Pages 5 through 6 of the May 28, 2008 written staff report;
  - p. Transcription of July 7, 1988 LAFCO meeting prepared by Donna K. Nichols, CSR, attached to that staff report;
  - q. Audio recording of July 7, 1988 LAFCO meeting.
3. Based upon the foregoing findings of law and fact, the Board of Directors concludes that the LAFCO Restrictions are not legally valid or binding on EID, and that there is no legal impediment to granting the Tribe’s request for additional water service to the Rancheria if sufficient uncommitted water supplies and infrastructure exist under applicable EID Board Policies, Administrative Regulations, procedures and practices.



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4. The Board of Directors finds as a matter of fact that sufficient uncommitted water supplies exist to grant the Tribe's request under applicable EID Board Policies, Administrative Regulations, procedures and practices. This finding is based upon all of the written and oral evidence elicited during and in connection with the April 28, 2008 and May 12, 2008 public meetings of the Board's Legal and Legislative Standing Committee and the May 28, 2008 public meeting of the Board of Directors, specifically including the following evidence:
- a. Page 8 of the April 28, 2008 written staff report;
  - b. PowerPoint slides presented by EID's Drinking Water Division Co-Manager on April 28, 2008;
  - c. Pages 5 and 6 of the May 12, 2008 written staff report;
  - d. 2007 Water Resources and Service Reliability Report;
  - e. Drought Preparedness Plan;
  - f. Page 6 of the May 28, 2008 written staff report.
5. The Board of Directors finds as a matter of fact that sufficient infrastructure exists to grant the Tribe's request under applicable EID Board Policies, Administrative Regulations, procedures and practices, that existing EID customers' service levels will not be adversely affected, and further, that the on-Rancheria improvements independently constructed by the Tribe will improve levels of service to some existing customers. These findings are based upon all of the written and oral evidence elicited during and in connection with the April 28, 2008 and May 12, 2008 public meetings of the Board's Legal and Legislative Standing Committee

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and the May 28, 2008 public meeting of the Board of Directors, specifically including the following evidence:

- a. Pages 8 through 9 of the April 28, 2008 written staff report;
- b. Map of existing water facilities attached to that written staff report;
- c. Map of future water facilities attached to that written staff report;
- d. Hydraulic study results table attached to that written staff report;
- e. Corrected hydraulic study results table distributed at the April 28, 2008 meeting;
- f. PowerPoint slides presented by EID's Senior Engineer, Drinking Water Division, on April 28, 2008;
- g. Page 6 of the May 12, 2008 written staff report;
- h. Letter to Michael Clougher dated May 1, 2008, attached to that staff report;
- i. Letter to Bruce Arnold dated May 12, 2008, distributed at the May 12, 2008 meeting;
- j. Chart by Phil Veerkamp entitled "BrushRdgRd\_FH-Pressure/psig," distributed at the May 12, 2008 meeting.

6. Based upon all of the foregoing findings of fact and law, the Board of Directors concludes that EID can and should grant the Tribe's request for additional water service at the Rancheria.

7. The Board of Directors concludes that granting that request under the terms and conditions of the Settlement Agreement/Memorandum of Understanding attached to this Resolution and incorporated herein by this reference will comply with all

applicable EID Board Policies, Administrative Regulations, procedures and practices.

1  
2 8. The Board of Directors concludes that the terms and conditions of the Settlement  
3 Agreement/Memorandum of Understanding would constitute a satisfactory and  
4 full resolution of all disputes existing between EID and the Tribe relating to the  
5 Tribe's purchase of additional water service from EID.  
6

7 9. The Board of Directors concludes that this action is categorically exempt from the  
8 California Environmental Quality Act (CEQA) and that both the MOU and the  
9 end use on the Rancheria are consistent with the El Dorado County General Plan.  
10 These conclusions are based upon all of the written and oral evidence elicited  
11 during and in connection with the April 28, 2008 and May 12, 2008 public  
12 meetings of the Board's Legal and Legislative Standing Committee and the May  
13 28, 2008 public meeting of the Board of Directors, specifically including the  
14 following evidence:  
15

- 16 a. Pages 3 through 5 of the May 28, 2008 written staff report;  
17  
18 b. The proposed Notice of Exemption attached to that staff report;  
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20 c. The Preliminary Review Worksheet for Categorical Exemptions on file at  
EID's offices;  
21  
22 d. Pages 6 through 7 of the May 28, 2008 written staff report.

23 EID staff is hereby authorized and directed to file said Notice of Exemption as  
24 prescribed by CEQA, the CEQA Guidelines, and EID's procedures for  
25 implementing CEQA.  
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10. The Board of Directors hereby approves said Settlement Agreement/Memorandum of Understanding, and authorizes the Board President to execute it, on behalf of EID.

The foregoing Resolution was introduced at a regular meeting of the Board of Directors of the EL DORADO IRRIGATION DISTRICT, held on the 28th day of May, 2008, by Director \_\_\_\_\_, who moved its adoption. The motion was seconded by Director \_\_\_\_\_, and a poll vote taken which stood as follows:

AYES:

NOES:

ABSENT:

ABSTAIN:

The motion having a majority of votes "Aye", the resolution was declared to have been adopted, and it was so ordered.

\_\_\_\_\_  
President, Board of Directors of  
EL DORADO IRRIGATION DISTRICT

ATTEST:

\_\_\_\_\_  
Clerk to the Board

(SEAL)

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I, the undersigned, Clerk to the Board of the EL DORADO IRRIGATION DISTRICT hereby certify that the foregoing resolution is a full, true and correct copy of a Resolution of the Board of Directors of the EL DORADO IRRIGATION DISTRICT entered into and adopted at a regular meeting of the Board of Directors held on the \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Clerk to the Board  
EL DORADO IRRIGATION DISTRICT

ATTACHMENT 2

SETTLEMENT AGREEMENT/MEMORANDUM OF UNDERSTANDING

THIS SETTLEMENT AGREEMENT/MEMORANDUM OF UNDERSTANDING (“MOU”) is made this \_\_\_\_\_ day of May, 2008 between the Shingle Springs Band of Miwok Indians, a federally-recognized Indian tribe (“Tribe”), and El Dorado Irrigation District (“EID”), an Irrigation District formed pursuant to the relevant provisions of California’s Water Code, by and through EID’s Board of Directors (respectively “Party” or collectively “Parties”).

RECITALS

This MOU is intended to provide for the full resolution of all disputes between the Tribe and EID having to do with the rights of the Tribe to purchase water for all purposes from EID. These disputes arose as a result of denial by EID of extended service requests by the Tribe, based on restrictions unilaterally imposed by El Dorado Local Agency Formation Commission (“LAFCO”) when it approved the annexation of the Tribe’s Rancheria. These disputes resulted in notice to EID of the Tribe’s imminent plans to bring suit in 2004. The Parties thereafter have engaged in continuous settlement negotiations under the protection of successive Tolling and Confidentiality Agreements. The Parties fully intend that this MOU shall be a complete and final resolution of all existing claims and disputes between them relating to EID’s provision of water service to the Rancheria and the Tribe, including but not limited to claims and disputes against former and present Board members and officers of EID in their individual capacities.

AGREEMENT

1. Nature of Relationship. The Parties agree that this and all service agreement(s) between EID and the Tribe will be on a government-to-government basis.
2. Water Service to the Tribe. EID is willing and able to provide the Tribe the water it needs for its Rancheria property (APN 319-100-37), irrespective of how such water is used as determined by the Tribe in its sovereign authority, under the terms and conditions stated herein.
  - a. Rate. The Parties agree that the rate appropriate for the provision of water service to the Tribe will be the Retail Rate (gravity) or any successor, as it may be amended from time to time.
  - b. Quantity. Subject to Section 2(d) below, the Parties agree that EID shall provide water service to the Rancheria at a maximum rate of 95 gallons per minute, with a total average volume of 135,000 gallons per day. At no time pursuant to this MOU shall EID be required to deliver water in excess of the rate of 95 gallons per minute or in excess of an average of 135,000 gallons per day. However, the Tribe is entitled to apply for more water in the future, and EID is obligated to treat that application the same as it would the application of any other customer within the District’s service area, selling the requested water service and

delivering the water if it is available under EID's then-current and generally applicable Board Policies, Administrative Regulations, procedures and practices governing the provision of water services and the delivery of water.

c. Method. EID shall deliver water to the Rancheria at a single point, through a three-inch meter modified to physically restrict the maximum flow to 95 gallons per minute. The 95-gallon-per-minute physical restriction shall be verified by EID through laboratory testing prior to installation and periodically thereafter as EID reasonably deems necessary. The Tribe may receive water at any rates and quantities, subject to the maximum limitations set forth in Paragraph 2.b., and shall be charged only for the actual, metered quantities delivered to it.

d. Facility Capacity Charge. The District shall charge, and the Tribe shall pay, a Facility Connection Charge (FCC) for water service. The FCC shall be the then-current Water-General District FCC, plus surcharges, applicable to the net sale of 215.75 Equivalent Dwelling Units (EDUs) to the Rancheria. Presently, the FCC is a total of \$3,709,605.50 (Three Million, Seven Hundred Nine Thousand, Six Hundred Five Dollars and Fifty Cents), representing 215.75 EDUs times \$17,194. The FCC reflects full credit (45 EDUs) for 22 existing ¾-inch meters (1 EDU each) already returned to the District and one existing three-inch meter (23 EDUs) that will remain in service.

i. Method and Timing of FCC Payment; Condition Precedent. Full payment of \$3,709,605.50 shall be a condition precedent to the delivery of water by EID to the Tribe pursuant to this MOU.

e. Water Required for Rancheria. The Parties agree, pursuant to this MOU, that EID has reviewed the Facilities Plan Report presented by the Tribe in October 2002 and has reviewed and approved the improvement plans signed and submitted by the Tribe's Registered Engineer on September 21, 2007, as amended and approved by the Parties thereafter. EID has confirmed its ability to provide the Tribe an average daily volume of 135,000 gallons per day for the Rancheria through a 3-inch meter at maximum flow of 95 gpm, subject only to EID's requirements to meet off-Rancheria fire flow events. The Parties agree that this MOU serves as a service agreement entitling the Tribe to purchase the amount of EDUs and to receive continuous service as identified herein, representing the total gallons per day described in this paragraph 2.e. The Parties further agree that the Tribe is entitled to seek additional water in the future, and that EID will provide it if available, all in accordance with EID's then current and generally applicable Board Policies, Administrative Regulations, procedures and practices governing the provision of water service to any customer within EID's service area. The Parties further agree and understand that the Tribe's need for an average daily volume of 135,000 gallons per day for the Rancheria is dependent upon the use of Title 22 treated recycled water for toilet flushing in the Tribe's gaming facility and hotel, and for irrigation purposes.

f. Jurisdiction over Water System. The Parties intend that jurisdiction over the water system on the Rancheria will be as follows: all service to the Rancheria will be provided through the three (3) inch meter functioning as the single point of delivery. That meter shall be located in a locked vault, with access solely controlled by EID. The Tribe will construct internal infrastructure as it sees fit but consistent with the improvement plans approved by EID, including a series of lines and storage tank(s), on the Rancheria which will provide the necessary water supply for all purposes, including fire protection, to serve the entire Rancheria. The Tribe will own and maintain all facilities downstream of the three (3) inch meter.

g. Cross-Connection Control. To protect public health and safety, including the health and safety of residents, guests and business invitees on the Rancheria, the Tribe may elect to install and maintain an air-gap separation between its internal system and EID's infrastructure that meets the requirements of California Code of Regulations, title 17, section 7602(a) or its successors. The air-gap separation shall be located at the point of delivery from the three (3) inch meter, and EID shall have sufficient access at all times to confirm that such air-gap separation exists. Unless such an air-gap separation exists, the Tribe shall implement and maintain a cross-connection control program for its internal system, including both point-of-use protection and a master backflow prevention device at the three (3) inch meter, that complies with the Uniform Plumbing Code, California Code of Regulations, title 17, section 7583 et seq., and their successors. To confirm the Tribe's ongoing compliance with the foregoing requirements, the Parties agree to the following: i) EID and Tribal representatives shall conduct a joint initial inspection of the Tribe's initial cross-connection control system installations; ii) At least annually thereafter, the Tribe shall transmit to EID for review an inspection report, prepared by a certified cross-connection control specialist, that identifies any changes in the system during the reporting period, discloses any suspected or actual failures during the reporting period, and affirms the system's ongoing compliance with the then-current Uniform Plumbing Code and Title 17 requirements; iii) If any report identifies any deficiency in the Tribe's cross-connection control system, or if any suspected or actual failure of any portion of the system is reported or occurs, EID representatives may, upon reasonable written notice, conduct a supplemental joint inspection of the relevant portions of the system; iv) At all times, EID representatives shall have authority and sufficient access to inspect and prescribe corrective action to ensure the master backflow prevention device at the three (3) inch meter meets all manufacturers' specifications.

h. Property Interests. As a further condition precedent to service under this MOU, the Tribe will request from the Bureau of Indian Affairs ("BIA"), and provide to EID, easements sufficient to preserve EID's ability to own, operate, service and maintain the three-inch meter and vault and all EID transmission lines which traverse the Rancheria as depicted in the attached Exhibit A, after verification of the exact location of the transmission lines via survey by a licensed land surveyor, conducted at the Tribe's expense and approved by EID. The Tribe,



with the cooperation of EID, will disconnect all other on-Rancheria services attached directly to the EID lines traversing the Rancheria. The Tribe hereby ratifies and incorporates by reference into this MOU that certain Extension of Facilities Agreement – Water dated September 21, 2007 and executed by Tribal Chairman Nicholas Fonseca.

i. Other Fees and Charges. Concurrent with EID's provision of water service under this MOU, the Tribe shall pay all outstanding charges on District project accounts numbers 65094 and 87530, to which the EID charges costs authorized by EID Administrative Regulation 9028.3.

j. EID Policies and Regulations; Drought. Provision of water service to the Tribe under this MOU shall be subject to all then-current EID Board Policies, Administrative Regulations, procedures and practices generally applicable to all water customers, including but not limited to EID's 2008 Drought Preparedness Plan or any successor plans. The Parties agree and understand that the Plan (including any generally applicable successor plans) authorizes EID to restrict water to any customer, including the Tribe, in the event of non-compliance with mandatory water restrictions during drought conditions.

3. CEQA Compliance. EID acknowledges that it has determined that neither the method nor the quantity of water to be delivered to the Tribe under this MOU will result in any significant adverse impact, as determined under California Environmental Quality Act and implementing regulations (collectively, "CEQA"), to the physical environment or to levels of service to any existing EID water customers, including but not limited to customers in the vicinity of the Rancheria. Accordingly, EID shall complete and process a Notice of Exemption in compliance with CEQA in conjunction with the execution of this MOU.

4. Wastewater Service. The Tribe agrees to use its best efforts to procure wastewater service from EID, subject to the concurrence of the Bureau of Indian Affairs and/or the National Indian Gaming Commission. The Tribe agrees to conduct all environmental analyses required by state and/or federal environmental law for the provision of wastewater service to the Rancheria, and further agrees to mitigate the significant environmental impacts that could reasonably result from such service to the Rancheria. The Parties acknowledge that the Rancheria is presently included within EID's service area for the limited purpose of water supply, and that the provision of wastewater service by EID is not currently authorized. Within two years of this MOU's execution, the Tribe agrees to initiate an application with LAFCO, and to diligently pursue to completion the application for the annexation of the Rancheria into the EID service area to authorize connection to, and delivery of, wastewater disposal and treatment service to the Rancheria by EID. The Tribe shall be deemed to have met its obligation of diligence if LAFCO renders a decision on the annexation application within eighteen months of its filing; provided, however, that the Parties agree and understand that the Tribe cannot control LAFCO, and delays may result from litigation or administrative actions initiated by third parties. The Parties further agree and understand

that the Tribe cannot be deemed responsible or in breach of this provision by virtue of delays caused by litigation or the administrative action of third parties, and/or by LAFCO's refusal or failure to act.

a. Conditions Precedent. The Parties agree and understand that annexation by LAFCO for wastewater service would authorize but not require the Tribe to seek wastewater service from EID and would authorize but not require EID to provide such service if requested, and that such annexation also may be contingent upon approval by the BIA. The Parties further agree and understand that any approval of such requested annexation will require the completion of legally-required environmental analyses evaluating the impacts, if any, associated with such wastewater service. The Parties further agree that additional conditions precedent exist for the provision of wastewater service to the Tribe, including EID's determination of its ability to serve, the payment of fees and charges to EID and LAFCO, the mitigation of environmental impacts, and the sale of additional needed water to the Tribe, as detailed below in subdivisions b-f.

b. EID Fees and Charges. The Parties agree and understand that EID charges to all annexation applicants EID's administrative costs incurred in processing an annexation application and that prior to the completion of an annexation, EID charges all applicants an annexation impact fee as set forth in EID Administrative Regulation 9032 or its successor, and the Tribe agrees to pay for such fee and costs as they are incurred. The Parties agree and understand that EID's standard methodology for calculating the annexation impact fee incorporates the El Dorado County Assessor's valuation of the subject property for property tax purposes, and that no such assessment is performed for the Rancheria in deference to its status as tax-exempt sovereign lands. Therefore, the Parties agree that at such time, if any, as an annexation impact fee becomes due under Administrative Regulation 9032, they shall meet and confer in good faith to determine a mutually agreed-upon substitute methodology for calculating the annexation impact fee that meets the intent of Administrative Regulation 9032 and the District's otherwise-applicable methodology, which otherwise respects the sovereign interests of the Tribe regarding the impact of such appraisal methodology on federal lands. If the Parties reach impasse in this process, the Parties agree to submit their dispute to a single retired judge with knowledge of federal Indian law or experience in Tribal matters, chosen jointly by the Parties pursuant to JAMS procedures, and if the Parties cannot agree, a judge will be selected pursuant to JAMS procedures. The Parties agree that they will voluntarily submit to mediation of their disputes, first, and only if mediation fails will they jointly retain a separate JAMS retired judge with knowledge of federal Indian law or experience in Tribal matters to arbitrate the dispute. Such arbitration will then be conducted according to the rules and procedures of JAMS then in effect at the time the request for arbitration is filed, and will be binding, subject to the review procedures then in effect by JAMS.

c. Mitigation of Impacts. The Tribe agrees to pay the costs of feasible measures identified in EID's environmental analyses to mitigate

potentially significant adverse impacts directly associated with EID's provision of wastewater service to the Rancheria. This MOU shall not be interpreted to mean the Tribe must pay for the mitigation of secondary or cumulative environmental impacts associated with the project, including growth inducement in areas south of Highway 50, or new EID lines or expansion-related issues to service persons south of Highway 50.

d. LAFCO Fees. The Parties agree and understand that LAFCO will charge annexation and processing fees for the application consistent with generally applicable policies, and the Tribe agrees to fund the cost of such LAFCO fees to the extent those fees are consistent with LAFCO policies generally applicable to all applicants.

e. Eminent Domain. In the event that any use of eminent domain power is necessary to provide wastewater, EID shall not be obliged to exercise that power; rather, the Tribe shall request the BIA to exercise that power on its behalf. However, EID recognizes that the Tribe cannot require BIA to take this action, and the Tribe shall have no liability in this respect in the event BIA refuses to take such action on behalf of the Tribe.

f. Water Requirements Associated with Wastewater Service. EID understands the Tribe's wastewater treatment facility enables the Tribe to use recycled water for its casino and hotel. EID further understands that the Tribe's water requirements will increase if it closes its treatment facility and secures wastewater service from EID. Therefore, the Parties agree that any obligation of the Tribe to secure wastewater service from EID would be contingent upon EID's sale to the Tribe of the additional water that it would need for its operations on the Rancheria as a result of curtailing its use of recycled water.

g. Provision of Wastewater Service. Any provision of wastewater service by EID to the Rancheria following any annexation of the Rancheria to the District for wastewater service purposes shall be made in accordance with EID's then-current Board Policies, Administrative Regulations, procedures and practices generally applicable to all wastewater customers.

5. Authority. The undersigned warrant and certify that the signatories to this MOU are each fully authorized to execute this MOU on behalf of and bind EID and its officers, directors, and employees, and the Tribe, its Tribal Council, and Tribal members respectively, and each entity will affix its authorizing resolutions thereto.

6. Limited Waiver of Tribal Sovereign Immunity. The Tribe hereby agrees to waive its sovereign immunity (and any requirement of exhaustion of tribal remedies) in connection with any dispute vis-à-vis EID that may arise under this Agreement, and consent to the jurisdiction of certain mediators, arbiters or courts solely for purposes of enforcing the terms of this Agreement. To that end, and for purposes of addressing disputes not resolved pursuant to the provisions of Section 4.b., the Tribe consents only to the jurisdiction of the U.S. District Court in the Eastern District of California (and all

relevant courts of appeal), or alternatively, to the jurisdiction of the Sacramento County Superior Court of California (and all relevant courts of appeal), for judicial resolution of disputes with EID over this Agreement. Notwithstanding the foregoing, and with the exception of Section 4.b. involving mediation and arbitration, EID and the Tribe agree that jurisdiction and venue for any such dispute shall be in (and the Tribe's waiver of sovereign immunity shall extend to) any superior court other than El Dorado County Superior Court unless it is determined by another superior court, *sua sponte* and without motion or suggestion of any party, that the action must be heard in El Dorado County Superior Court. EID agrees to jurisdiction and venue in Sacramento County Superior Court and will not assert that jurisdiction and venue lie in El Dorado County Superior Court unless there is no other superior court that will accept jurisdiction and venue for the matter. The waiver is also limited to amounts due under the terms of this Agreement, and in no instance shall the waiver be read to extend to allow judicial enforcement of any kind against any assets of the Tribe, other than the Revenue Stream of its casino. ("Revenue Stream" is defined as net profits due and owing to the Tribe that are derived from the operation of the casino after all costs of operation, repayment of debt service, payments to the State under any Compact, and payments to the Tribe for any necessary governmental functions associated with the operation of the casino have been made.) The Tribe also does not agree to waive any aspect of its sovereign immunity with respect to actions by parties other than EID.

7. Indemnification/Defense. To the fullest extent permitted by law (including, without limitation, California Civil Code Section 2782), the Tribe shall defend (with legal counsel reasonably acceptable to EID), indemnify and hold harmless EID and its officers, agents, departments, officials, representatives and employees (collectively "Indemnitees") from and against any and all claims, administrative actions, lawsuits, loss, cost, damage, injury (including, without limitation, injury to the Tribe or any member, employee, or agent thereof), expense and liability of every kind, nature and description (including, without limitation, incidental and consequential damages, court or administrative agency costs, attorneys' fees, litigation expenses and fees of expert consultants and/or expert witnesses incurred in connection therewith and costs of investigation) that arise from or relate to, directly or indirectly, in whole or in part, this MOU or the Parties' performance thereof (collectively, "Liabilities"), save and except a claim by the Tribe against EID, its employees, agents, and/or officials for breach of contract with respect to, or violation of rights provided by, the MOU. Such obligations to defend, hold harmless and indemnify any Indemnatee shall not apply to the extent that such Liabilities are caused in whole or in part by the sole negligence, active negligence, or willful misconduct of any Indemnatee. The Tribe's obligation to provide a defense to EID shall extend to the retention of outside legal counsel and payment of costs necessary to the defense of EID but it shall not include time spent by EID's employees, agents or officials in defense of such litigation. EID's consent with respect to the selection of such counsel may not be unreasonably withheld.

8. Forum Selection. In the event of a breach or violation of this MOU, or third party interference with performance by any Party to this MOU, the Parties hereby agree that any Party to this MOU is entitled to seek relief in a United States District Court to enforce the terms of this MOU, or seek any other appropriate relief. The Parties  
EID/MOU

hereby consent to the jurisdiction of the U.S. District Court in such an action, and only in the event the District Court determines it cannot exercise subject matter jurisdiction over such a claim, may the Parties then seek relief in the appropriate California state court consistent with the terms set forth above in Section 6.

9. Damages and Costs of Enforcement. If suit is brought to enforce or interpret any part of this MOU, or the rights or obligations of either Party to this MOU, including, without limitation, an action to recover damages for the breach of this MOU or to secure specific enforcement of this MOU, the prevailing Party shall be entitled to recover as an element of its costs of suit, and not as damages, reasonable attorneys' fees and expenses and court costs. This right shall exist in connection with both the Parties' respective right to seek specific performance of this MOU, as well as the Parties' respective right to seek compensatory damages for any breach of this MOU.

10. No Third Party Beneficiaries. With the exception of the individual members of the Tribe, this Agreement is not intended to, and will not be construed to, confer a benefit or create any right for a third party. The Parties agree no third party, with the exception of the individual members of the Tribe, possesses the right or power to bring an action to enforce any of the terms of this Agreement. The Tribal Council's approval, duly recorded in a Tribal Council resolution or approved minutes of that body's proceedings, constitutes a prerequisite to suit by any member(s) of the Tribe against EID in connection with this MOU, and in the absence of such approval, any suit by any member(s) of the Tribe in connection with this MOU may not proceed.

11. Notices. Any notices required or permitted hereunder shall be in writing and may be personally delivered, or delivered via the U.S. Postal Service, first class postage prepaid, or by a reputable overnight delivery service (such as U.S. Express Mail, Priority Mail, Federal Express, UPS, or DHL), addressed as follows or to such other place as each Party may designate by subsequent written notice to each other:

For the Tribe:  
Chairperson  
Shingle Springs Rancheria Band of Indians  
5281 Honpie Road  
Placerville, CA 95667

For EID:  
General Manager  
El Dorado Irrigation District  
2890 Mosquito Road  
Placerville, CA 95667

12. Rule of Construction. No provision of this MOU shall be interpreted or construed against any Party because such Party or its counsel was the sole or principal drafter thereof. When the context requires, the plural shall include the singular, and the singular the plural.

13. Counterparts. This MOU may be executed in any number of counterparts, and is effective vis-à-vis each Party on the date of its execution by each Party. Additional parties may be added by mutual consent of the Parties.

14. Entire Agreement. This MOU represents the entire agreement between the Parties respecting the subject matter therein and supersedes any prior written and prior or contemporaneous oral understandings or agreements. This MOU cannot be amended except in a writing signed by authorized representatives of both Parties. The limited waiver of tribal sovereign immunity provided in Section 6, above, shall extend to any amendment of this MOU.

SHINGLE SPRINGS BAND OF MIWOK  
INDIANS

Dated: May \_\_\_\_, 2008

By: \_\_\_\_\_  
Nicholas H. Fonseca, Its Chairman

EL DORADO IRRIGATION DISTRICT

Dated: May \_\_\_\_, 2008

By: \_\_\_\_\_  
Its: \_\_\_\_\_

APPROVED AS TO FORM:

General Counsel for El Dorado Irrigation District

\_\_\_\_\_  
Thomas Cumpston  
General Counsel, El Dorado Irrigation District

\_\_\_\_\_  
Date

Sonnenschein Nath & Rosenthal LLP

\_\_\_\_\_  
Paula M. Yost  
Counsel for Shingle Springs  
Band of Miwok Indians

\_\_\_\_\_  
Date

**Annexation History: Shingle Springs Rancheria Annexation to EID (LAFCO Project #87-15) aka 1988 Annexation**

*1988 Annexation Timeline*

The 1988 Shingle Springs Rancheria Annexation proposal involved the annexation of 159.25 acres, APN 319-100-37, into the El Dorado Irrigation District (EID). At the time of the 1988 annexation, the parcel was landlocked and mostly uninhabited. This parcel is located northeast of the Shingle Springs area, north of Highway 50 between the Shingle Springs Road and Greenstone Road off ramps.

According to the application materials and the 1988 LAFCO staff report, the Tribe requested the annexation because the on-site well failed. Also according to these materials, the Tribe contemplated developing the parcel into approximately 40 residential lots over a “slow, long-term process.” No waiver of sovereign immunity was given to LAFCO by either the Tribe or the Bureau of Indian Affairs for the LAFCO proceedings. The April 7, 1988 staff report contained the following findings:

- The “proposal would not contribute to the likelihood of significant growth in the area during the next 10 years”;
- The “annexation will not have a growth inducing impact... and poses no concern with comparable single family residences.”

At the April 7, 1988 meeting, the project was continued “for one month until County Counsel researches the ability of local government agencies to control development on this property.”

At the May 5, 1988 meeting, the project was continued “off calendar on the grounds that the property does not adequately set forth the ultimate ramifications of annexation to the district and unanswered questions concerning future development of the property make it impossible to determine whether the proposal is consistent with the LAFCO guidelines.”

On June 21, 1988, the Tribe’s representative submitted to LAFCO a “Statement of Position,” followed by a Tribal Ordinance on June 22, 1988 detailing the Tribe’s development plans for the parcel, describing the development of the parcel as “compatible with surrounding land uses and the El Dorado general plan.”

At the July 7, 1988 meeting, the minutes state that LAFCO, the County and the Tribe reached “an agreement” and that the motion of approval “represented a good faith agreement between the parties.” The record states, “This application is unique in that the owners are the United States of America and Sacramento Verona Band of Homeless Indians. The ownership of this parcel presents questions of whether or not this Commission has jurisdiction over a sovereign Indian nation and whether or not the county ordinances apply to the development of property.... [A]lthough LAFCO cannot regulate land use, we do have the right and obligation to protect our public facilities and

promote orderly growth.” The motion approved the annexation with the following conditions:

- Section 6. The El Dorado Irrigation District shall make water available for residential use only, including accessory uses and for tribal use limited to community facilities, school playgrounds, recreational facilities, a residential home for tribal elders, and community grazing or garden projects.
- Section 7. The service capability shall be limited to that necessary to serve a community of forty residential lots including the uses listed in Section 6 above.
- Section 8. The annexation is subject to all rules, regulations, and policies of the El Dorado Irrigation District.
- Section 9. LAFCO shall retain jurisdiction and authority to amend or eliminate Sections 6, 7, and 8 above.

At the hearing, the Tribe’s representative stated two concerns. The first was that “If the circumstances change, the conditions of the [Tribal] ordinance can be changed and wanted LAFCO to be satisfied with the full environmental evaluation process being completed.” Second, “the Tribe does not want additional restrictions. If the [County] general plan designation for that area were to change and allow commercial development, the Tribe would like to be able to change provisions of the ordinance to allow the commercial use.”

On July 20, 1988 the Tribe’s representative sent a letter to LAFCO contending that “it cannot be said... as a factual matter that the Rancheria agreed to each and every one of the conditions imposed by the vote of the Commission. Rather, the conditions reflect the extent to which LAFCO was willing to accommodate (*sic*) the Rancheria based on LAFCO’s concerns.”

The letter was not a request for reconsideration nor was such request subsequently submitted.

There is no record of BIA review and approval of the annexation. Although the 1989 EID Conducting Authority Resolution asserts that it “secured by an instrument in writing dated November 2, 1988” the required consent from the Secretary of the Interior on behalf of the BIA, there is no record that such consent was granted. There is a November 2, 1988 letter from EID to the Bureau of Reclamation (USBR) requesting their approval to serve USBR water on the Rancheria, but it is unknown whether that letter is what the EID resolution references.



### *2002 Hearings*

Led by then-Chairman Charlie Paine, LAFCO held a series of contentious hearings and special meetings in the first half of 2002 that were widely viewed as antagonistic towards the Tribe and the then-proposed casino on the Rancheria. The hearings stopped when Commissioner Paine was removed as LAFCO Chair on June 6, 2002. No discernible action was taken towards resolving the 1988 annexation and its legal questions.

### *2007-2008 Reorganization Effort*

Following the completion and execution of a settlement agreement between the County of El Dorado and the Tribe, in April 2007 LAFCO staff approached EID staff to discuss the available options to address and resolve the legal issues. Of three possible options, the superior alternative that did not involve either a court ruling or the use of a novel process was the reorganization of the Rancheria (detachment with concurrent re-annexation).

After receiving preliminary buy-in from EID management and staff, EID arranged for LAFCO staff to meet with the Tribal Council. Following a June 2007 meeting, all parties appeared to be on board with the reorganization proposal except for one obstacle: Timing. At the time Red Hawk Casino was about 15 months from opening and for construction purposes the additional water needed to be secured within a year, by June 2008 at the latest. The Tribe's stated concern was that the LAFCO process would not be completed in time. The reorganization proposal was modified by adding an out of agency service agreement (OOA), which has a shorter completion time, followed by a reorganization proposal at a later date.

In August 2007 EID staff notified LAFCO not to spend any additional time on this proposal and by September 2007 this agency was notified that the EID Board would not proceed with the reorganization proposal.

No lawsuit was initiated by any party, but LAFCO staff speculates that in the second half of 2007 EID and the Tribe engaged in negotiations on a memorandum of understanding for EID to provide additional water. Once the existence of a draft MOU was revealed, LAFCO staff attempted to persuade the Tribe and EID to return to the negotiating table with the proposal that the MOU could be used as an OOA.

On May 28, 2008, EID adopted the MOU with the Tribe under the determination that the LAFCO conditions are not "legally valid or binding upon EID." At that public hearing, the LAFCO Executive Officer testified in the public comment period that EID did not have the authority under the law to make the determination. In addition, the other legal questions surrounding the annexation's validity were not resolved in the adoption of the MOU.

*December 2009 Ruling*

EID was sued by Voices for Rural Living following its adoption of the MOU in El Dorado County Superior Court on four grounds. Judge Melikian ruled against EID on two of those grounds: That there was a fair argument that EID did not comply with CEQA when it adopted the MOU and that EID did not have the authority to unilaterally invalidate the LAFCO conditions. Soon afterwards EID contacted LAFCO to discuss the ruling.

In March 2010 the then-chair and vice chair of LAFCO and its staff met with legal representatives from the Tribe and EID to discuss the available options to address the LAFCO conditions. Again various options were discussed with LAFCO advocating for the reorganization proposal as being the superior alternative.

While there was only a tentative agreement on pursuing the reorganization proposal, EID and LAFCO agreed that the immediate focus should be on the environmental review. Beginning in April 2010 until May 2012, LAFCO worked closely with EID and its consultants in the preparation of an environmental review that would satisfy the court order, the needs of the EID-Tribe MOU and the LAFCO process. The EID Board certified the EIR in May 2012.

After additional discussions with EID staff on the preferred approach, the Shingle Springs Rancheria Reorganization proposal was submitted in July 2012.

EL DORADO IRRIGATION DISTRICT MEMORANDUM OF  
UNDERSTANDING FOR WATER SERVICE TO THE  
SHINGLE SPRINGS RANCHERIA

Final Environmental Impact Report  
State Clearinghouse No. 2011022045

Prepared for  
El Dorado Irrigation District

May 2012



# EL DORADO IRRIGATION DISTRICT MEMORANDUM OF UNDERSTANDING FOR WATER SERVICE TO THE SHINGLE SPRINGS RANCHERIA

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Prepared for  
El Dorado Irrigation District

May 2012



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#### Acronyms & Definitions

af	Acre-feet
AFY	acre-feet per year
BIA	Bureau of Indian Affairs
Caltrans	California Department of Transportation
CEQA	California Environmental Quality Act
District	El Dorado Irrigation District (also EID)
Draft EIR	Draft Environmental Impact Report
EA	Environmental Assessment
EDCWA	El Dorado County Water Agency
EDO	Equivalent Dwelling Units
EID	El Dorado Irrigation District (also District_
EID Board	EID Board of Directors
EIS	Environmental Impact Statement
FERC	Federal Energy Regulatory Commission
gpd	gallons per day
gpm	gallons per minute

IS	Initial Study
LAFCO	Local Agency Formation Commission
MOU	Memorandum of Understanding
NEPA	National Environmental Policy Act
NOP	Notice of Preparation
<i>Oak Fountain</i>	<i>California Oak Foundation v. City of Santa Clarita</i>
proposed project	Water Service to the Shingle Springs Rancheria
Rancheria	Shingle Springs Rancheria (also Tribe)
SMUD	Sacramento Municipal Utilities District
SWRCB	State Water Resources Control Board
Tribe	Shingle Springs Rancheria (also Rancheria)
USBR	US Bureau of Reclamation
UWMP	Urban Water Management Plan
<i>Vineyard</i>	<i>Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova</i>
Writ	Peremptory Writ of Mandate
WSA	Water Supply Assessment

## **CHAPTER 1**

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### **Introduction**

#### **1.1 Introduction**

The El Dorado Irrigation District (EID or District) circulated the Draft Environmental Impact Report (Draft EIR) for the Memorandum of Understanding (MOU) for Water Service to the Shingle Springs Rancheria (proposed project) for public and agency review and comment November 18, 2011 through January 16, 2012. At the end of the comment period, four written letters were received addressing the content and analysis contained in the Draft EIR.

This document is the Final EIR for the proposed project and it contains written responses to all comments received by EID on the Draft EIR (see Chapter 2). The responses to comments clarify and amplify text in the Draft EIR but do not change the environmental impact findings or significance conclusions of the Draft EIR. This Final EIR has been prepared in accordance with the California Environmental Quality Act (CEQA) Guidelines. Together, the Draft EIR (and all appendices to the Draft EIR) and this Final EIR (and all appendices) constitute the EIR for the proposed project.

On September 13, 2010, the Superior Court of California for the County of El Dorado issued a Peremptory Writ of Mandate (Writ), providing that EID may adopt a MOU with the Shingle Springs Rancheria (Rancheria or Tribe) or other agreement to provide water service to the Rancheria only after EID has: (1) complied with CEQA; and (2) secured any necessary approvals from the El Dorado Local Agency Formation Commission (LAFCO). The Writ further states that EID may continue to provide water service to the Rancheria in an amount not to exceed what the MOU allows and on terms not inconsistent with the MOU, so long as the District is actively pursuing the actions described above in (1) and (2). The District prepared its response to the Writ in the form of this EIR, and the Writ, therefore, guides the required scope of the analysis contained in this EIR.

#### **1.2 Summary of Proposed Project**

##### **1.2.1 Summary of Project**

Under the proposed project, EID would provide water service to the Shingle Springs Rancheria to serve consumptive needs of the Rancheria consistent with the MOU, which stated that the District would provide the Rancheria with water service at a maximum rate of 95 gallons per minute (gpm) and an average volume of 135,000 gallons per day (gpd). This agreement would



allow up to a net increase of 215.75 Equivalent Dwelling Units (EDU)<sup>1</sup> over the existing 45 EDUs of water service EID was already providing the Tribe. Specific project elements are described below.

Water service would be provided through a three-inch flow meter located on the Rancheria in an approximately five-foot by seven-foot underground vault (flow meter vault) adjacent to Honpie Road. The meter would provide maximum continuous flow of 95 gpm and a maximum average daily delivery of 135,000 gpd. No physical changes would occur to EID's control, access, operation, maintenance, repair, or replacement capabilities. Water service on the Rancheria would be provided through a tribal utility district independent of EID. The new flow meter would be relocated approximately 2,000 feet to the southwest from the existing meter serving the Rancheria. The flow meter would be connected to approximately 4,025 feet of new 12-inch water supply pipeline to be installed by the Tribe on the Rancheria along Honpie Road. The underground flow meter vault would be locked and EID would have sole access. Other appurtenances adjacent to the flow meter vault on the Rancheria would include a backflow prevention assembly structure which would be approximately four feet tall. No new infrastructure would be constructed off the Rancheria in the EID service area and existing EID operations would remain unchanged.

The proposed project would also include the abandonment-in-place of an existing six-inch EID waterline that runs just outside of the Rancheria along Artesia Road and all six-inch waterlines and service connections within the Rancheria, which extend from north of Reservation Court to the existing 12-inch line. Abandonment-in-place of the existing asbestos concrete pipeline is EID and industry standard practice and would minimize the need for additional land disturbance and prevent any release of asbestos fibers.

The Tribe is responsible for the construction of any new infrastructure on the downstream side of the three-inch meter, including backflow protection. As part of the EID's and the Tribe's respective construction responsibilities, EID would abandon existing easements on Rancheria land, and the Bureau of Indian Affairs (BIA) would grant EID easements for all new lines to allow EID acceptance, control, and maintenance of the facilities delivering water to the Tribe.

The Tribe installed the water service infrastructure in 2008; it has been in continuous operation since being placed into service that year. Consistent with the Writ, however, the analysis in the Draft EIR assessed the project's environmental impacts as if these water service improvements had not been constructed.

## **1.2.2 Project Objectives**

EID's underlying project objective as it relates to this EIR is to comply with the Writ. The primary objectives of the proposed project are to:

1. Provide water service to the Rancheria consistent with the May 2008 MOU.
2. Provide water service to the Rancheria in a manner consistent with EID's plans, policies, and administrative regulations.

<sup>1</sup> An Equivalent Dwelling Unit is the amount of water an average single-family residence in the same part of EID's service area would consume annually.

3. Provide sufficient water service to support the consumptive and fire suppression demands of existing development on the Rancheria, including approximately 24 residences, tribal administrative buildings, the gaming facility as developed in 2008, and all landscaping and planned uses.
4. Apply for and obtain, or work with the Tribe to apply for and obtain, a decision from the El Dorado LAFCO to remove the service restrictions from the annexation conditions imposed when the El Dorado LAFCO approved the annexation of the Rancheria to EID's water service area in 1988.

### 1.3 Public Participation and Environmental Review Process

The following actions took place during the preparation, distribution and review of the Draft EIR.

- The Notice of Preparation (NOP) for preparation of the Draft EIR was filed with the State Clearinghouse (SCH #2011022045) on February 11, 2011. The 30-day comment period for the NOP ended March 14, 2011.
- The availability of the NOP and information on the scoping meetings was noticed in the following newspapers:
  - Mt. Democrat (February 11, 2011)
  - Sacramento Bee (February 11, 2011)
  - Village Life (February 16, 2011)
  - El Dorado Hills Telegraph (February 16, 2011)
- The NOP was distributed to all responsible and trustee agencies, and interested groups, organizations and individuals and was made available for review on EID's website: [www.eid.org](http://www.eid.org). The Draft EIR was also made available for review at the following locations:
  - El Dorado Hills Public Library 7455 Silva Valley Parkway, El Dorado Hills, CA
  - Placerville Main Library 345 Fair Lane, Placerville, CA
  - EID Customer Service Building 2890 Mosquito Road, Placerville, CA
- A public scoping meeting was held on March 3, 2011 in Placerville, CA.
- The Draft EIR was filed with the State Clearinghouse on November 18, 2011. The public comment period ended January 16, 2012.
- The availability of the Draft EIR and information on the public meeting was noticed in the following newspapers:
  - Mt. Democrat (November 18, 2011)
  - Sacramento Bee (November 18, 2011)
  - Village Life (November 30, 2011)
  - El Dorado Hills Telegraph (November 23, 2011)
- The Draft EIR was distributed to all responsible and trustee agencies, and interested groups, organizations and individuals and was made available for review on EID's

website: [www.eid.org](http://www.eid.org). The Draft EIR was also made available for review at the following locations:

- El Dorado Hills Public Library 7455 Silva Valley Parkway, El Dorado Hills, CA
  - Placerville Main Library 345 Fair Lane, Placerville, CA
  - EID Customer Service Building 2890 Mosquito Road, Placerville, CA
- A public meeting was held on December 5, 2011 to receive oral comments on the content and analysis of the Draft EIR.

## 1.4 CEQA Certification and Project Approval

Section 15090(a) of the CEQA Guidelines states that, “Prior to approving a project, the lead agency shall certify: (1) that the final EIR has been completed in compliance with CEQA; (2) that the final EIR was presented to the decision-making body of the lead agency and that the decision-making body reviewed and considered the information contained in the final EIR prior to approving the project; and (3) the final EIR reflects the lead agency’s independent judgment and analysis.”

Following review of the Final EIR, the EID Board of Directors (EID Board) will decide whether to certify the Final EIR as complying with CEQA and reflecting the EID Board’s independent judgment and analysis (CEQA Guidelines section 15090).

EID or the Tribe must also apply for, and obtain a decision from the El Dorado LAFCO to remove the service restrictions from the annexation conditions the EL Dorado LAFCO imposed when it approved the annexation of the Rancheria to EID’s water service area in 1988.

Following certification of the EIR and LAFCO’s action, the EID Board will take action on the proposed project. Should the EID Board decide in favor of the project, as proposed or as modified, it will proceed with project approval actions and direct that EID staff take the necessary steps to implement the Board’s final decision. Such action may occur concurrent with or subsequent to certification of the EIR.

EID must also file a Return to the Court’s Writ, demonstrating compliance with its requirements, and requesting that the Court discharge the Writ.

## 1.5 Organization of Final EIR

This Final EIR is organized as follows:

**Chapter 1 – Introduction:** This chapter summarizes the proposed project, describes the content and format of the Final EIR, summarizes the public participation and review process, and describes the CEQA certification and project approval process.

**Chapter 2 – Responses to Comments:** Chapter 2 includes a list of the comment letters received followed by the comment letters and responses to the comments contained in each letter. The responses to comments are numbered consistent with the comment number in each letter. For example, the response to the first comment in Comment Letter 1 is Response to Comment 1-1.

## CHAPTER 2

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# Responses to Comments

### 2.1 Introduction

This section provides individual responses to written comments received from agencies and interested persons commenting on the Draft EIR (Appendix A to this Final EIR). Each comment letter was assigned a number (i.e., 1, 2, etc). Individual comments within each letter have been bracketed based on issue and have been assigned a number. For example, the first comment in Letter 1 is Comment 1-1. Each comment letter received has been reproduced in its entirety followed by the responses to the individual bracketed comment within each letter. Cross references to other responses are provided where necessary in order to fully respond to a comment.

### 2.2 List of Comment Letters Received

The comment letters received on the Draft EIR are listed below in Table 2-1.

**TABLE 2-1**  
**LIST OF COMMENT LETTERS AND COMMENTS RECEIVED**

<b>Commenter</b>		<b>Comment Letter</b>
Governor's Office of Planning and Research State Clearinghouse and Planning Unit	Scott Morgan, Director	1
California Regional Water Quality Control Board, Central Valley Region	Genevieve Sparks, Environmental Scientist	2
California Department of Transportation, District #3	Jorge Rivas Jr.	3
Law Offices of Stephan C. Volker	Stephan C. Volker, Attorney	4



EDMUND G. BROWN JR.  
GOVERNOR

STATE OF CALIFORNIA  
GOVERNOR'S OFFICE of PLANNING AND RESEARCH  
STATE CLEARINGHOUSE AND PLANNING UNIT



KEN ALEX  
DIRECTOR

January 18, 2012

Dan Corcoran  
El Dorado Irrigation District  
2890 Mosquito Road  
Placerville, CA 95667

Subject: Memorandum of Understanding for Water Service to the Shingle Springs Rancheria  
SCH#: 2011022045

Dear Dan Corcoran:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on January 16, 2012, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

1 -

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Scott Morgan  
Director, State Clearinghouse

Enclosures  
cc: Resources Agency

Document Details Report  
State Clearinghouse Data Base

**SCH#** 2011022045  
**Project Title** Memorandum of Understanding for Water Service to the Shingle Springs Rancheria  
**Lead Agency** El Dorado Irrigation District

**Type** EIR Draft EIR  
**Description** Note: Review Per Lead

Water service would be provided through a three-inch flow meter located on the Rancheria in an approximately five-foot seven-foot underground vault (flow meter vault) adjacent to Honpie Road. The meter would provide maximum continuous flow of 95 gpm and a maximum average daily delivery of 135,000 gpd. No physical changes would occur to EID's control, access, operation, maintenance, repair, or replacement capabilities. Water service on the Rancheria would be provided through a tribal utility district independent of EID. The new flow meter would be relocated approximately 2,000 feet to the southwest from the existing meter serving Rancheria. The flow meter would be connected to approximately 4,025 feet of new 12-inch water supply pipeline to be installed by the Tribe on the Rancheria along Honpie Road. The underground flow meter vault would be locked and EID would have sole access. Other appurtenances adjacent to the flow meter vault would include a backflow prevention assembly structure which would be approximately four feet tall. No new infrastructure would be constructed off the Rancheria in the EID service area and existing EID operations would remain unchanged.

**Lead Agency Contact**

**Name** Dan Corcoran  
**Agency** El Dorado Irrigation District  
**Phone** (530) 642-4082  
**email**  
**Address** 2890 Mosquito Road  
**City** Placerville  
**Fax**  
**State** CA **Zip** 95667

**Project Location**

**County** El Dorado  
**City**  
**Region**  
**Lat / Long** 38° 41' 38" N / 120° 54' 06" W  
**Cross Streets** Honpie Road  
**Parcel No.** 31910037  
**Township** 10N **Range** 10E **Section** 29 **Base**

**Proximity to:**

**Highways** Hwy 50  
**Airports**  
**Railways**  
**Waterways** Slate Creek  
**Schools** Buckeye ES, California Montessori Project  
**Land Use** Tribal Land

**Project Issues** Cumulative Effects; Water Supply; Growth Inducing

**Reviewing Agencies** Resources Agency; Department of Fish and Game, Region 2; Department of Parks and Recreation; Department of Water Resources; California Highway Patrol; Caltrans, District 3; CA Department of Public Health; State Water Resources Control Board, Division of Financial Assistance; State Water Resources Control Board, Division of Water Rights; Regional Water Quality Control Bd., Region 5 (Sacramento); Department of Toxic Substances Control; Native American Heritage Commission; Other Agency(ies)

Note: Blanks in data fields result from insufficient information provided by lead agency.

Document Details Report  
State Clearinghouse Data Base

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*Date Received* 11/18/2011    *Start of Review* 11/18/2011    *End of Review* 01/16/2012

## **Letter 1: Governor's Office of Planning and Research, State Clearinghouse and Planning Unit**

### **Response to Comment 1-1**

The comment letter acknowledged that EID complied with the State Clearinghouse review requirements for the Draft EIR. One comment letter was provided to the State Clearinghouse in response to the Notice of Completion. That letter, from the California Regional Water Quality Control Board, Central Valley Region is included as Letter 2. Please see responses to Letter 2.





Matthew Rodriguez  
Secretary for  
Environmental Protection

California Regional Water Quality Control Board  
Central Valley Region  
Katherine Hart, Chair

11020 Sun Center Drive, #200, Rancho Cordova, California 95670-6114  
(916) 464-3291 • FAX (916) 464-4645  
<http://www.waterboards.ca.gov/centralvalley>



Edmund G. Brown Jr.  
Governor

30 November 2011

Dan Corcoran, Environmental Manager  
El Dorado Irrigation District  
2890 Mosquito Road  
Placerville, CA 95667

CERTIFIED MAIL  
7010 3090 0000 5045 2828

**COMMENTS TO DRAFT ENVIRONMENTAL IMPACT REPORT, MEMORANDUM OF UNDERSTANDING FOR WATER SERVICE TO THE SHINGLE SPRINGS RANCHERIA, SCH NO. 2011022045, EL DORADO COUNTY**

Pursuant to the State Clearinghouse's 18 November 2011 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Draft Environmental Impact Report* for the Memorandum of Understanding for Water Service to the Shingle Springs Rancheria, located in El Dorado County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

**Construction Storm Water General Permit**

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit), Construction General Permit Order No. 2009-009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP).

For more information on the Construction General Permit, visit the State Water Resources Control Board website at:  
[http://www.waterboards.ca.gov/water\\_issues/programs/stormwater/constpermits.shtml](http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml)

2-

Memorandum of Understanding for  
Water Service to the Shingle Springs Rancheria  
SCH No. 2011022045  
El Dorado County

-2-

30 November 2011

**Phase I and II Municipal Separate Storm Sewer System (MS4) Permits<sup>1</sup>**

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:

[http://www.waterboards.ca.gov/centralvalley/water\\_issues/storm\\_water/municipal\\_permits/](http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/municipal_permits/)

**Industrial Storm Water General Permit**

Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 97-03-DWQ.

2-1

For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at:

[http://www.waterboards.ca.gov/centralvalley/water\\_issues/storm\\_water/industrial\\_general\\_permits/index.shtml](http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/industrial_general_permits/index.shtml)

cont

**Clean Water Act Section 404 Permit**

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed for the United States Army Corps of Engineers (USACOE). If a Section 404 permit is required by the USACOE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements.

If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACOE at (916) 557-5250.

**Clean Water Act Section 401 Permit – Water Quality Certification**

If an USACOE permit, or any other federal permit, is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications.

<sup>1</sup> Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.

Memorandum of Understanding for  
Water Service to the Shingle Springs Rancheria  
SCH No. 2011022045  
El Dorado County

-3-

30 November 2011

**Waste Discharge Requirements**

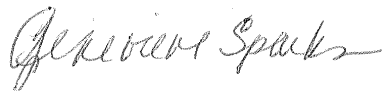
If USACOE determines that only non-jurisdictional waters of the State (i.e., "non-federal" waters of the State) are present in the proposed project area, the proposed project will require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation.

2-1  
cont

For more information on the Water Quality Certification and WDR processes, visit the Central Valley Water Board website at:

[http://www.waterboards.ca.gov/centralvalley/water\\_issues/water\\_quality\\_certification/](http://www.waterboards.ca.gov/centralvalley/water_issues/water_quality_certification/)

If you have questions regarding these comments, please contact me at (916) 464-4745 or [gsparks@waterboards.ca.gov](mailto:gsparks@waterboards.ca.gov).



Genevieve (Gen) Sparks  
Environmental Scientist  
401 Water Quality Certification Program

cc: State Clearinghouse Unit, Governor's Office of Planning and Research, Sacramento

**Letter 2: California Regional Water Quality Control Board,  
Central Valley Region**

**Response to Comment 2-1**

The comment is noted. The proposed project would comply with all applicable permits and standards recommended by the Central Valley Regional Water Quality Control Board. The proposed project would also comply with all standards applicable to federal land held in trust for the Tribe.

**From:** Jorge Rivas [jorge\_rivas@dot.ca.gov]  
**Sent:** Friday, January 13, 2012 10:24 AM  
**To:** Corcoran, Daniel  
**Cc:** Eric Fredericks  
**Subject:** SACH#2011022045: El Dorado Irrigation District Memorandum of Understand  
for Water Service to Shingle Springs Rancheria

03-ELD-50 PM VAR  
El Dorado Irrigation District Memorandum of Understand for Water Service to Shingle Springs  
Rancheria  
Draft Environmental Impact Report

Dan Corcoran , Environmental Manager  
El Dorado Irrigation District  
2890 Mosquito Road  
Placerville, CA 95667

Dear Mr. Corcoran:

Thank you for the opportunity to review and comment on the Draft Environmental Impact Report (DEIR) for the El Dorado Irrigation District Memorandum of Understand (MOU) for Water Service to Shingle Springs Rancheria. The proposed MOU is to provide water service through a three-inch flow meter located on the Rancheria in an approximately five-foot by seven-foot underground vault adjacent to Honpie Road. The meter would provide a maximum continuous flow of 95 gallons per minute (gpm) and a maximum average daily delivery of 135,000 gallons per day (gpd). No physical changes will occur to El Dorado Irrigation District's control, access, operation, maintenance, repair, or replacements capabilities.

At this time Caltrans has no comments. However, the Department would appreciate being kept apprised of any changes to the project. Caltrans looks forward to working with the El Dorado Irrigation District on this and future projects. If you have any questions, please contact me at 916-274-0679 or at [jorge\\_rivas@dot.ca.gov](mailto:jorge_rivas@dot.ca.gov).

Thank you,

.....  
Jorge Rivas Jr.  
California Department of Transportation District #3  
A: 2379 Gateway Oaks Drive Ste. 150  
Sacramento, CA 95833  
E: [jorge\\_rivas@dot.ca.gov](mailto:jorge_rivas@dot.ca.gov)  
P: 916.274.0679

## **Letter 3: California Department of Transportation**

### **Response to Comment 3-1**

The comment is noted. Caltrans will be notified of any changes to the proposed project.

Stephan C. Volker  
Joshua A.H. Harris  
Alexis E. Krieg  
Stephanie L. Abrahams  
Daniel P. Garrett-Steinman  
Jamey M.B. Volker  
M. Benjamin Eichenberg

Law Offices of  
**Stephan C. Volker**  
436 – 14<sup>th</sup> Street, Suite 1300  
Oakland, California 94612  
Tel: (510) 496-0600 ❖ Fax: (510) 496-1366  
svolker@volkerlaw.com

10.410.01

January 13, 2012

**VIA EMAIL**  
dcorcoran@eid.org

Dan Corcoran  
Environmental Manager  
El Dorado Irrigation District  
2890 Mosquito Road  
Placerville, CA 95667

**Re: Draft Environmental Impact Report: El Dorado Irrigation District  
Memorandum of Understanding for Water Service to the Shingle Springs  
Rancheria**

Dear Mr. Corcoran:

**INTRODUCTION**

On behalf of Voices for Rural Living, we submit the following comments on the Draft Environmental Impact Report (“DEIR”) prepared by El Dorado Irrigation District (“EID”) for the Memorandum of Understanding for Water Service to the Shingle Springs Rancheria (the “Project”). EID was ordered to set aside its approval of its May 2008 Memorandum of Understanding (“MOU”) with the Shingle Springs Rancheria (the “Rancheria”) because it approved the Project without first addressing the potentially significant impacts of providing increased water service to the Rancheria in an EIR. This late-prepared DEIR fails to comply with the requirements of the California Environmental Quality Act (CEQA), as EID’s mere dalliance at *pro forma* compliance fails to seriously analyze the Project’s impacts and to consider appropriate alternatives to the Project which could lessen those impacts, as discussed below. EID should correct these deficiencies and recirculate an adequate DEIR.

4 –

**THE DEIR IGNORES IMPACTS ON EXISTING WATER  
COMMITMENTS, INCLUDING LAKE LEVEL  
AND INSTREAM FLOW REQUIREMENTS**

EID erroneously limited the scope of its environmental impact analysis to the Project’s potential to impact local water supply systems. DEIR ES-2. It did so based on the premise it need only consider whether the Project creates an impact that “requires new or expanded water

4 –

Dan Corcoran  
Environmental Manager  
El Dorado Irrigation District  
January 13, 2012  
Page 2

supply resources or entitlements.” DEIR 3.2-13. EID then used this restrictive premise to skew its determination whether or not the Project has significant water supply effects. EID’s narrow focus overlooks significant water supply impacts posed by the Project.

Neither the DEIR nor EID’s 2010 Urban Water Management Plan Update (“UWMP”) addresses instream flow and lake level commitments to protect fish and wildlife and recreational uses that constrain EID’s water supply. By examining only whether the Project would require new or expanded water supply resources, the DEIR impermissibly omits examination of the Project’s potential impacts on lake level and instream flow commitments, especially during drought years. EID is required to maintain minimum lake levels in Caples, Silver, Echo and Aloha lakes as well as minimum instream flows below these reservoirs and other diversions. EID 2008 Drought Preparedness Plan (“Drought Plan”), Appendix A, p. 17. In its Drought Plan, EID stated that during anticipated drought scenarios it would be unable to meet lake level and instream flow requirements as well as its service commitments to existing water users, even where it reduced its service obligations per its established drought stage reductions. EID Drought Plan, 1-8, 1-9. While the DEIR does discuss the Drought Plan, it fails to address the Drought Plan’s water supply impact data, including its observation that “the regular failure to meet the stated standard of the proposed drought triggers and actions under a range of plausible climate scenarios should not be ignored.” *Id.* at 1-8, 1-9; DEIR 3.2-10. Consequently, the DEIR ignores *potentially significant water supply impacts posed by the Project*. This is a serious omission in view of EID’s acknowledgment that droughts will pose ever more serious shortfalls as increasing global warming reduces Sierra snowpacks and increases summer and fall temperatures, driving up irrigation and landscaping demands. UWMP 7-1; DEIR 3.2-7; Drought Plan 1-1.

4 – 2  
cont

#### **THE DEIR IMPROPERLY RELIES UPON FUTURE WATER SUPPLY SOURCES**

The DEIR utilizes two “anticipated” future water supplies in addition to those available in 2010 for the purposes of analyzing Project impacts on water supply.<sup>1</sup> DEIR 3.2-5. The first source, designated as the Public Law 101-514 Supply, is included because EID “expects to receive at least 7,500 [acre-feet a year (“AFY”)] . . . through the execution of a sub-contract with the [El Dorado County Water Agency].” DEIR Appendix C, p. 14. The DEIR does not indicate that this contract has yet been executed. Likewise, the UWMP indicates only that this project is “likely to occur.” UWMP 4-20. Unless EID has executed a contract for this water, its reliance

4 –

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<sup>1</sup> The Water Supply Assessment (“WSA”) prepared for the DEIR and included in its Appendix C states that, other than these two future water supplies, “the Project will not rely on water supplies not yet used.” DEIR App. C, p 15. This implies that the Project *will* rely on *these* future water supplies.



Dan Corcoran  
Environmental Manager  
El Dorado Irrigation District  
January 13, 2012  
Page 3

upon this water as a source that offsets the impacts of the Project on existing water users and on lake level and instream flow commitments is misplaced.

The second future water supply, an agreement with the Sacramento Municipal Utilities District (“SMUD”), would supply an additional 30,000 AFY to EID during normal year conditions through 2025, and 40,000 AFY after that. DEIR App. C, p. 14. The UWMP indicates that EID “projects using 30,000 ac-ft of storage annually, with 15,000 ac-ft of carryover storage rights in a single dry year, 10,000 ac-ft in any second consecutive dry year, and a total of 5,000 ac-ft for years three and four of a multiple dry year sequence.” UWMP 4-20. The UWMP states that this project is “likely to occur;” however, it does not confirm that it has been finalized. *Id.* Unless it has, EID’s reliance on this water source is likewise misplaced.

4-3  
cont

An EIR “must address the impacts of likely future water sources, and the EIR’s discussion must include a reasoned analysis of the circumstances affecting the likelihood of the water’s availability.” *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 432. And, when “it is impossible to confidently determine that anticipated future water sources will be available, CEQA requires some discussion of possible replacement sources or alternatives to use of the anticipated water, and of the environmental consequences of those contingencies.” *Id.* The DEIR does neither. This flaw is fatal under CEQA. *Id.*

**THE DEIR AND ITS WATER SUPPLY ASSESSMENT  
DO NOT EXAMINE LONG TERM DROUGHT SCENARIOS**

The WSA used EID’s historical annual runoff data for projecting the single and multiple dry year water supplies, out to three dry years in a row. DEIR App. C, pp. 16-17. It concludes that if the multiple dry years mimic those of 1987-1992, by the third dry year in a row, EID would have 84 percent of the water it would have during a “normal year.” DEIR App. C, pp. 16-17. The WSA does not, however, address what would happen to the water supply if there were more than three dry years in a row, even though it uses data from a drought that lasted much longer than three years. EID has historically experienced many extended droughts, with almost the entire 1930s falling in the range of dry to critically dry years. Drought Plan, 1-12. By failing to examine the reasonably foreseeable instances of extended drought in either the DEIR or the WSA, EID has avoided examining the true impact of the Project on existing water commitments, including lake level and instream flow commitments during drought scenarios.

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**THE DEIR IGNORES POTENTIALLY SIGNIFICANT  
POPULATION AND HOUSING IMPACTS**

The DEIR acknowledges that the Project would provide additional water to the Rancheria, but states that “[g]rowth and development on the Rancheria, including the casino and hotel, would occur with or without the proposed project . . . Because the proposed project would only serve existing and planned development on the Rancheria, potential growth associated with such development has been analyzed and mitigated” in prior environmental documents. DEIR 5-3.

In contrast, the Initial Study checklist acknowledges that “on the Rancheria, there could be minor additional residential development served by the project. The exact amount would depend on and be consistent with the Tribal Land Use Plan. This is considered a less than significant impact and will not be evaluated in the EIR.” DEIR App. A, p. 37. EID fails to demonstrate how a Project that will induce and create an *unknown* quantum of additional residential development (which was not previously addressed in existing environmental documents) would necessarily have a less than significant impact on population and housing. EID has a duty to analyze potential development scenarios by conferring with the Shingle Springs Band, rather than simply assuming that whatever development ensues will be insignificant. This potentially significant impact must be addressed with far more discussion and detail in the DEIR, rather than buried in one conclusory paragraph in an appendix.

**THE DEIR’S STATED PROJECT OBJECTIVE IS FLAWED**

CEQA requires that an EIR include a statement of the objectives sought by the proposed project, that “should include the underlying purpose of the project.” CEQA Guidelines § 15124(b). EID has skewed its analysis to foreclose consideration of alternatives by stating that the underlying purpose of the Project is “comply[ing] with the Writ.” DEIR 2-3. While the purpose of the DEIR may be to comply with the Writ, the underlying purpose of the Project evaluated by the DEIR – the MOU – cannot be framed so narrowly. The actual purpose of the Project is to provide water service to the Rancheria.

Elsewhere, EID admits that its first Project objective is to “[p]rovide water service to the Rancheria consistent with the May 2008 MOU.” DEIR 2-3. It has likewise conceded that the proposed Project “is defined . . . as EID providing water service to the Shingle Springs Rancheria consistent with the MOU.” DEIR 2-2. But notwithstanding these admissions, EID has impermissibly identified the approval and implementation of the Project as the primary objective. EID has adopted this exclusive objective to preclude any deviation from the MOU

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that was set aside by the Court in 2010. By constraining itself to the exact terms of the invalidated MOU, EID has developed an DEIR that is plainly a “post-hoc rationalization” for EID’s May 2008 MOU, in clear violation of CEQA.

As a consequence of its impermissible restriction of its Project objective to approval of the MOU, EID has foreclosed consideration and adoption of any alternatives besides the proposed Project. It insists that only approval of the Project would satisfy the Project objective of “provid[ing] water service to the Rancheria as described in the MOU.” DEIR 4-2 (Alternative 1); 4-4 (Alternative 2); 4-5 (Alternative 3); 4-6 (Alternative 4); 4-8 (Alternative 5). By preordaining that only the Project itself could meet the project objectives, EID has violated CEQA’s command that it consider a reasonable range of alternatives that would “feasibly attain most of the basic objectives of the project.” CEQA Guidelines § 15126.6(a).

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**THE DEIR’S DISCUSSION OF THE PROJECT’S CONFLICTS  
WITH APPLICABLE PLANS IS CIRCULAR**

While the DEIR does not analyze any potential Project impacts outside water supply impacts, the Initial Study Checklist included at Appendix A acknowledges that the Project conflicts with the existing LAFCO conditions. DEIR App. A, p. 32. The DEIR considers this conflict less than significant because one aspect of the proposed Project “includes obtaining a LAFCO decision removing any conditions that might limit water service to anything different or less than the MOU proposes to allow. If LAFCO makes such a decision, its approval would make the MOU consistent with existing and adopted plans.” *Id.* This circular reasoning is insufficient to render this impact less than significant for the purposes of CEQA. As EID cannot predict LAFCO’s actions, it must consider this impact potentially significant and potentially unmitigable. Its failure to do so violates CEQA.

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**THE DEIR’S ALTERNATIVE IMPACT ANALYSIS IS INADEQUATE**

The purpose of examining alternatives to the Project is to lessen potentially significant Project impacts. Because EID failed to adequately examine the impacts of the Project on water supply in drought years and on growth inducement, EID does not know whether the Project has potentially significant water supply or growth inducing impacts that could be avoided or reduced.

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EID performed a cursory analysis of five alternatives to the Project: (1) the no project alternative (“NPA”) required by CEQA; (2) water trucking; (3) conservation/ recycled water; (4) groundwater; and (5) conjunctive use. All of the alternatives except the Project alternative assume that EID would provide water to the Rancheria consistent with the 1988 LAFCO conditions. DEIR 4-3 - 4-7. Thus, EID limited its analysis to five alternatives that would not meet the basic project objectives. This violates CEQA Guidelines section 15126.6(a). None of



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the proposed alternatives examined a scenario where EID would provide water to the Rancheria at a rate anywhere in between that permitted under the LAFCO conditions and the 154 AFY of the Project. Such an alternative would provide increased water supply to the Rancheria while reducing water supply impacts and growth inducing impacts.

As mentioned above, EID failed to adequately consider the potential impacts of the Project during a drought of more than three years, and failed to adequately consider the potential growth-inducing impacts of the Project. Because it failed to perform this essential analysis, EID assumed that the Project posed no potentially significant impacts, and indeed, even assumed that it need not perform any in-depth analysis of any of the potential impacts of any of its proposed alternatives. EID's failure to conduct necessary analysis renders its DEIR woefully inadequate.

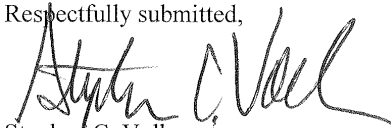
**THE DEIR IMPROPERLY HIDES ANALYSIS IN APPENDICES**

"The data in an EIR must not only be sufficient in quantity, it must be presented in a manner calculated to adequately inform the public and decision makers, who may not be previously familiar with the details of the project. '[I]nformation scattered here and there in EIR appendices or a report buried in an appendix, is not a substitute for a good faith reasoned analysis.'" *Vineyard Area Citizens for Responsible Growth, supra*, 40 Cal.4th at 442 (quoting *California Oak Foundation v. City of Santa Clarita* (2005) 133 Cal.App.4th 1219 at 1239, internal quotes omitted). Here, EID has relegated much of its environmental analysis and determinations regarding the significance of potential environmental impacts to Appendix A – its Initial Study. By relegating the majority of its meager discussion of the Project's actual environmental impacts to an initial study checklist and the WSA, each 'buried in an appendix,' EID has prepared a DEIR that fails to foster informed public participation and informed decision making.

**CONCLUSION**

For the reasons stated above, the DEIR fails to satisfy CEQA's requirements. EID should recirculate a DEIR that fully addresses the Project's potentially significant impacts, and that considers a reasonable range of Project alternatives.

Respectfully submitted,

  
Stephan C. Volker  
Attorney for Voices for Rural Living

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## Letter 4: Law Offices of Stephan C. Volker

### Response to Comment 4-1

EID respectfully disagrees with the commenter's statements that the Draft EIR does not comply with CEQA and, therefore, declines the commenter's suggestion that it recirculate the Draft EIR.

CEQA section 21092.1 and CEQA Guidelines section 15088.5 only require an EIR to be re-circulated to responsible and trustee agencies for consultation and new public notice given when "significant new information" has been added to the EIR after the draft has been circulated for review, but prior to certification of the final EIR. "Significant new information" requiring re-circulation includes, for example, a disclosure showing that:

1. A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
2. A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
3. A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it.
4. The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. (*Mountain Lion Coalition v. Fish and Game Com.* (1989) 214 Cal.App.3d 1043)

In this Final EIR, no new significant information has been added that would lead to a new significant environmental impact or increase the severity of an environmental impact or that would otherwise trigger one of the recirculation requirements. The comments and responses to comments do not demonstrate that there are additional feasible alternatives or that there is a need for mitigation measures different from those presented and evaluated in the Draft EIR. The Draft EIR contains a thorough evaluation of all potentially significant impacts (in fact, after careful review, no significant impacts were identified), and the information that has been added in response to comments clarifies or amplifies information already in the Draft EIR. Accordingly, none of the tests for recirculation are met and recirculation is not required.

The commenter's assertion that the Draft EIR represents *pro forma* compliance failing to seriously analyze the Project's impacts and consider appropriate alternatives to the Project is incorrect. Section 3.2 of the Draft EIR and its accompanying WSA (Appendix C to the Draft EIR) represent a detailed analysis of projected water supply conditions in normal, single dry, and multiple dry years during current and future conditions. Additionally, Section 4.2 of the Draft EIR considers a number of appropriate alternatives to the Project and concludes that none of these alternatives would lessen the impacts. Therefore, the Draft EIR appropriately concluded that the alternatives to the Project would result in greater impacts and the Project represents the environmentally superior alternative.

See Responses to Comments 4-2 through 4-9, and specifically, Response to Comment 4-8 regarding the adequacy of the discussion of alternatives to the proposed project.

### **Response to Comment 4-2**

The comment suggests that the scope of the EIR was erroneously limited to potential impacts on local water supplies and therefore omits examination of other potential impacts on lake levels and instream flow requirements, especially during drought years. This is incorrect. The EIR analysis incorporated the information contained in the Water Supply Assessment (WSA)<sup>1</sup> prepared for the project, which evaluated all EID water supplies that are or will be available during normal, single dry and multiple dry water years for 20-years in the future, to meet existing demands, expected demands of the Rancheria, and reasonably foreseeable planned future water demands served by EID. Water demand and water supply data and projections in the WSA are taken directly from the 2010 Urban Water Management Plan (UWMP) Update<sup>2</sup>. Therefore, as explained below, relevant lake level and instream flow requirements are accounted for in the EIR's calculations of the water supplies available for consumptive uses.

The July 2003, Final Environmental Impact Statement (EIS) for Hydropower License No. 184-065<sup>3,4</sup> and the September 2003 Final Environmental Assessment (EA) and Initial Study (IS) for the Transfer of the Sly Park Unit, Central Valley Project<sup>5</sup> identify operational and environmental measures and commitments to maintain specified minimum stream flows and lake-level requirements for beneficial uses including habitat (EIS, pages 13-24; EA/IS Appendix C). Contrary to the commentator's assertion, these minimum stream flow and lake level requirements are accounted for in EID's 2010 Update to its UWMP projected water supplies for normal, single and multiple dry years (UWMP, pages 4-7, 4-8; see UWMP, Table 5-3). That is, the water supply calculations first satisfy in-stream flow and lake-level requirements, and only the water available after these requirements are met is considered to be water supply available for consumptive purposes.

The UWMP provided the population, water demand and water supply data and projections included in the WSA which was prepared for the proposed project. The information contained in the WSA, including the assessment of projected water supply availability to meet project demand during normal, single dry and multiple dry years, was incorporated into the analysis in the Draft EIR (see Appendix C, Section 3.2, and Chapter 5 (Sections 5.1 and 5.2). Therefore, because both the 2010 UWMP and the WSA included in-stream flow and lake-level requirements contained in

<sup>1</sup> Kennedy Jenks Consultants, 2011. El Dorado Irrigation District Water Supply Assessment for Shingle Springs Rancheria, September 12, 2011.

<sup>2</sup> El Dorado Irrigation District, 2011. El Dorado Irrigation District Urban Water Management Plan, 2010 Update. July, 2011.

<sup>3</sup> The Federal Energy Regulatory Commission license for Project 184 (117 FERC ¶ 62,044) was issued on October 18, 2006. The instream flow requirements are contained within Appendix A, Condition No. 31, and Condition No. 34(1). The lake level requirements are Appendix A, Condition No. 52.

<sup>4</sup> The State Water Resources Control Board issued water rights permit 21112 for the 17,000 acre-foot consumptive water right associated with Project 184 in 1996, re-issued after reconsideration in 2001, and then amended for a purpose not material to the proposed project in 2007. The lake level requirements are Conditions Nos. 8-10. There are no instream flow requirements.

<sup>5</sup> The FERC license for the Sly Park Reservoir water rights (licenses 11835 and 11836) were issued in 1986 and amended for a purpose not material to the proposed project in 2010. There are no lake level requirements. The instream flow requirements described on page 2 of license 11835 and pages 2-3 of license 11836 and are identical.

the 2003 EIS and 2003 EA/IS in calculating water supplies available for consumptive use under both existing and future conditions, the EIR's analysis of water supply impacts likewise assumes that no water is available for consumption until all in-stream flow and lake-level requirements have first been met. This standard for consumptive use is established by the Federal Energy Regulatory Commission (FERC) license and State Water Resources Control Board (SWRCB) water rights permit and will not change until each license or permit is renewed or amended. The FERC license expires in 2046, and the SWRCB water rights permit has no defined date of expiration.

As shown in Section 3.2, Tables 3.2-5 through 3.2-7 in the Draft EIR, during normal, single dry year and multiple dry year conditions, sufficient water supply would be available to meet proposed project water demand without affecting EID's ability to serve its service area outside of the Rancheria or requiring EID to develop additional supplies or entitlements not already anticipated and in progress to meet future water demand through at least 2030. The EIR concludes that the District has the capability to respond to both near-term and long-term changing water supply conditions, and the occurrence of single- and multiple-year droughts.

The comment further states that the Draft EIR fails to address the 2008 Drought Preparedness Plan's water supply impact data including the Drought Preparedness Plan's observation that "the regular failure to meet the stated standard of the proposed drought triggers and actions under a range of plausible climate scenarios should not be ignored." The comment is incorrect, and its quotation from the Drought Preparedness Plan is out of context and misleading.

The cited section of the Drought Preparedness Plan discusses how climate change might affect the plan's analysis and prescribed actions. It summarizes "general insights about climate change over Northern California," then attempts to "downscale" those general insights into "local weather information," selecting one of "several approaches that are used, each of which has its advantages and disadvantages and its own communities of promoters and detractors." (Drought Preparedness Plan, page 1-7.) Doing so creates "a range of plausible future climate scenarios." (*Id.* at page 1-8.) Within that range, "there are times when EID fails to either supply the amount of water that its customers expect under the fluctuating drought stage, or to meet the instream flow obligations it has agreed to in recent regulatory proceedings, *depending on which use is given priority.*" (*Id.*, page 1-8 [emphasis added].) As shown above, however, the EIR's water supply projections do give priority to the instream flow obligations, satisfying them first before calculating available water supplies.

While the climate change scenario analyses "should not be ignored, the Drought Preparedness Plan concludes that it is premature to use results such as those shown in Figure 1-5 as the sole basis for policy setting and decision making." (*Ibid.*) Further, the magnitude of the issue is limited, because "the overall level of demand in the system is over ten times larger as [*sic*] these potential shortfalls." (*Ibid.*)

The EIR acknowledges both the potential and uncertainty of climate change, but finds that its speculative effects would not alter its conclusions regarding water supply. As described in Section 3.2, page 3.2-16 and 3.2-17 of the Draft EIR, there is generally a high level of uncertainty with respect to the potential effects of climate change on water resources in Northern California,

including within EID's service area. However, as shown in Table 3.2-9, EID would maintain a substantial surplus of water even during multiple dry years, through 2025. By 2030, a surplus is projected to remain minimal, based on the figures and projections contained in the 2010 UWMP<sup>6</sup>. However, as discussed in Section 5 of the WSA (see Appendix C to the Draft EIR) and Sections 4 and 5 of the 2010 UWMP, the multiple dry year supply and demand projections shown in Table 3.2-9 represent a conservative analytical approach, in that they do not consider implementation of any additional water conservation efforts beyond those presently implemented, and therefore do not assume any decrease in demand during drought conditions<sup>7</sup>. Specifically, the demand projections do not consider the mandatory rationing or demand reduction measures described in the MOU that EID's Drought Preparedness Plan and Drought Action Plan would impose on the Tribe, in common with all other EID users. These demand reduction measures would result in a net reduction in demand of approximately 15 percent to 50 percent pursuant to the Drought Preparedness Plan and Drought Action Plan. As the severity of drought increases, so does the degree to which demand reduction measures would be enforced. Additional conservation efforts (Draft EIR page 3-9), would also be implemented pursuant to EID Board Policy 5030. These conservation efforts are expected to result in additional water conservation that would occur on an ongoing basis, in addition to drought-related demand reduction measures. Therefore, in the event climate change results in a net reduction in water supply availability, EID anticipates that additional water conservation measures, combined with dry year/drought-related demand reduction measures, would be sufficient to alleviate potential reductions in supply. The WSA demonstrates that sufficient water supply would be available to serve the proposed project as well as its existing customers, even considering the potential yet uncertain effects of climate change on water supply. The Draft EIR's conclusions are based on, among other things, the substantial evidence in the WSA. Consistent with the findings in the WSA, the Draft EIR concluded that even when considering the potential effects of climate change on water supply, a combination of on-going water conservation planning and dry year demand reduction requirements are expected to be sufficient to maintain supply even during multiple year drought conditions.

### **Response to Comment 4-3**

We respectfully disagree with the commenter's contention that anticipated future water supplies cannot be relied upon to offset project or cumulative water impacts. As described on page 3.2-5 of the Draft EIR and pages 14 and 15 of the WSA (Appendix C to the Draft EIR), the two anticipated future water supplies include Public Law 101-514 Supply and the SMUD-El Dorado Agreement. Public Law 101-514 Supply is a Congressionally mandated execution of a Water Supply Contract between US Bureau of Reclamation (USBR) and El Dorado County Water Agency (EDCWA) for 15,000 acre-feet per year (AFY) of water from Folsom Reservoir. The District expects to receive at least 7,500 AFY of this total through execution of a sub-contract with the EDCWA. The substantial evidence upon which this expectation is made includes the fact that the subcontract has been negotiated, and the parties intend to execute it once the USBR and EDCWA

<sup>6</sup> Kennedy Jenks, 2011. El Dorado Irrigation District Water Supply Assessment for the Shingle Springs Rancheria. September 12, 2011.

<sup>7</sup> Kennedy Jenks, 2011. El Dorado Irrigation District Water Supply Assessment for the Shingle Springs Rancheria. September 12, 2011.



enter into the Water Supply Contract. This allocation would be subject to the USBR Shortage Policy for Municipal and Industrial Contractors of maximum dry year reductions of 25 percent of historic use.

The Sacramento Municipal Utilities District (SMUD)-El Dorado Agreement allows for 30,000 acre-feet (af) of annual water storage in SMUD reservoirs under normal year conditions through 2025 and 40,000 af thereafter; with an additional 15,000 af available for carryover purposes. After a first dry year in which annual storage supplies would be exhausted, the District projects using 5,000 af of the 15,000 af total of carryover supplies in each subsequent year of a multiple-dry year sequence.

The commenter suggests the Draft EIR does not comply with the principles set forth in *Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007). However, the project at issue in *Vineyard* is unlike the proposed project. The project under consideration was a community plan for a large mixed-use development project of “more than 22,000 residential units, housing as many as 60,000 people, together with schools and parks, as well as office and commercial uses occupying about 480 acres of land.” (*Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* [2007] 40 Cal.4<sup>th</sup> 412, 422) It had an annual water demand of 22,000 af (versus 154 af for the Rancheria under the proposed project) and the water purveyor lacked sufficient water rights to supply even the first phase of what was to be a multi-phased project developed over about 20 years. (*Id.* at 423, 442) In contrast, EID can and in fact, does, meet the Rancheria’s demands under the MOU from existing, vested water rights and water supplies.

In *Vineyard*, the “disputed issue is how firmly future water supplies for a proposed project must be identified or, to put the question in reverse, what level of uncertainty regarding the availability of water supplies can be tolerated in an EIR for a land use plan.” (40 Cal. 4<sup>th</sup> at 428) The judicial language the comment cites is, therefore, inapplicable to the CEQA analysis of a proposed project for which ample water supplies already exist, and the only issue is the likelihood that existing and future water supplies will be cumulatively sufficient to serve the proposed project and all other existing and future uses. Also, contrary to the commenter’s suggestion, *Vineyard* does not mean that there can be no uncertainty in an EIR regarding future water supplies.

Nevertheless, *Vineyard* is instructive. It specifically notes the value of a WSA which the District prepared for the proposed project (and included as Appendix C to the Draft EIR), and states that “as to additional *future* supplies needed to serve the project, the assessment need include only the public water system's plans for acquiring the additional supplies, including cost and time estimates and regulatory approvals the system anticipates needing.” (*Id.* at 433). The WSA for the proposed project includes this information.

In *Vineyard*, the California Supreme Court also endorsed the precise methodology the Draft EIR uses for its analysis of water supply adequacy – making the 2010 UWMP the basis for the WSA, which in turn is incorporated into the Draft EIR’s analysis (see, e.g., Draft EIR pages 3.2-9, 3.2-13 and refer also to Response to Comment 4-2):

CEQA, in our understanding, does not require a city or county, each time a new land use development comes up for approval, to reinvent the water planning wheel. Every urban water supplier is already required to prepare and periodically update an “urban water management plan,” which must, inter alia, describe and project estimated past, present, and future water sources, and the supply and demand for at least 20 years into the future. (Wat.Code, §§ 10620–10631) When an individual land use project requires CEQA evaluation, the urban water management plan's information and analysis may be incorporated in the water supply and demand assessment required by both the Water Code and CEQA “[i]f the projected water demand associated with the proposed project was accounted for in the most recently adopted urban water management plan.” (Wat.Code § 10910, subd. (c)(2)) Thus the Water Code and the CEQA provision requiring compliance with it (Pub. Resources Code, § 21151.9) contemplate that analysis in an individual project's CEQA evaluation may incorporate previous overall water planning projections, assuming the individual project's demand was included in the overall water plan (*Vineyard*, 40 Cal.4th at 434-435).

To maintain a conservative approach, the WSA and Draft EIR analysis assumed that the Rancheria’s project demand was not included in the UWMP’s projections. Therefore, it was added to all of the UWMP’s demand totals (Draft EIR Tables 3.2-8 and 3.2-9; WSA (Appendix C) pages 7, 18, Tables 3, 4, 10 and 11).

#### **Response to Comment 4-4**

Because CEQA does not provide specific guidance for analyzing water supply impacts in multiple dry years, the EIR utilized the criteria contained within California Water Code section 10632 and the Guidebook for Implementation of Senate Bill 610 and Senate Bill 221 of 2001, which notes that “in developing supply projections, water agencies should take into account the latest urban water shortage contingency analysis done pursuant to [W]ater [C]ode section 10632. This analysis should include an estimate of the minimum water supply available during each of the next three years based on the driest three-year historical sequence for the agency’s water supplies.” (DWR 2003, page 71) As noted on page 17, Table 8 of the WSA (Appendix C), multiple dry year supply was based on data from 1987-1992, which includes EID’s driest three-year historical sequence. Therefore, the analysis of water supply under multiple dry-year conditions is consistent with State law and it does not ignore such dry periods as the comment suggests.

Please see also Response to Comment 4-2 regarding lake level and in-stream flow commitments during drought scenarios.

#### **Response to Comment 4-5**

The question asked in Environmental Checklist Item 13a is, “Would the project induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (or example, through extension of roads or other infrastructure).” The proposed project would not, in fact, directly induce population growth because it does not propose new homes or businesses. It also would not indirectly induce substantial population growth through the extension

of new water supply infrastructure because all proposed water supply distribution facilities would be constructed specifically to serve the Tribe's gaming facility and existing users on the Rancheria. In addition, the proposed project would not serve other uses outside of the Rancheria or be used to foster additional unplanned growth in the Rancheria. Therefore, the proposed infrastructure would not increase the capacity of EID's water delivery system (see page 5-3 of the Draft EIR).

Section 5.1 of the Draft EIR evaluates the growth-inducement potential of the proposed project, as required under CEQA Guidelines section 15126. As stated on page 5-2, under the proposed project, EID would provide water service to the Rancheria consistent with the MOU to serve existing uses on the Rancheria. The existing and proposed MOUs allow EID to provide the Rancheria with water service at a maximum rate of 95 gpm and an average volume of 135,000 gpd. This is a net increase of 215.75 EDU over the existing 45 EDU of service, with the gaming facility requiring all of that increase<sup>8</sup>. This cap on water supply and the lack of any new infrastructure capacity in the surrounding area makes it impossible for the water to be used to support "substantial population growth" on or off the Rancheria.

The MOU is specific to planned growth as directed by Tribal improvement plans. Specifically, section 2(d)(ii) of the MOU states that "The Parties agree, pursuant to this MOU, that EID has reviewed the Facilities Plan Report presented by the Tribe in October 2002 and has reviewed and approved the improvement plans signed and submitted by the Tribe's Registered Engineer on September 21, 2007, as amended and approved by the parties thereafter."

As it relates to existing and planned development on the Rancheria, as described on page 5-3 of the Draft EIR, a certain amount of growth and development on the Rancheria related to the Tribe's existing gaming facility would occur with or without the proposed project. The impacts of that existing and planned growth have already been reviewed pursuant to CEQA and National Environmental Policy Act (NEPA). Specifically, the casino and hotel project was reviewed pursuant to NEPA in 2001. California Department of Transportation (Caltrans) and the BIA also prepared and certified a joint NEPA/CEQA document in 2002 which analyzed impacts of the interchange and the hotel and casino (including off-Rancheria impacts). Because the proposed project would only serve existing and planned development on the Rancheria, the impacts of which have been previously reviewed in prior CEQA/NEPA documents, and because EID service to the Rancheria would be defined and limited by what is allowed under the MOU, implementation of the proposed project cannot add water supply capacity or infrastructure for additional, unknown growth on or off the Rancheria.

Future growth and development on the Rancheria, in addition to that provided for by the improvement plans reviewed with the MOU, would require the Tribe to renegotiate with EID for this additional service, as provided in section 2(d)(ii) of the MOU which states, "The Parties further agree that the Tribe is entitled to seek additional water in the future, and that EID will provide it if available, all in accordance with EID's then current and generally applicable Board Policies, Administrative Regulations, procedures and practices governing the provisions of water service to any customer

<sup>8</sup> El Dorado Irrigation District, 2008. El Dorado Irrigation District Legal and Legislation Standing Committee Staff Report (pp. 8, 2008, April 28)

within EID's service area." As dictated in the MOU, EID has not agreed to provide water supply for any future growth or development on the Rancheria, and for EID to speculate what this future growth might entail is outside the scope of EID's and this EIR's review. Any future amendment of the MOU would be required to comply with CEQA's rules for new, subsequent, or supplemental environmental review.

Finally, the Tribe has confirmed that no additional, substantial future growth or development on the Rancheria related to the MOU is reasonably foreseeable<sup>9</sup>. Also, should any on-Rancheria actions with the potential to significantly impact the environment be proposed in the future, those actions would be subject to applicable provisions of NEPA and other federal environmental laws. To assume significant additional future development on the Rancheria without supporting evidence would be to speculate, and CEQA provides that an EIR should not speculate. (See CEQA Guidelines section 15145 [if lead agency determines that impact would be too speculative to evaluate, lead agency to note its conclusion and terminate discussion].)

#### **Response to Comment 4-6**

As described on page 2-2 of the Draft EIR and in Chapter 1 of this Final EIR, the District has prepared its response to the September 13, 2010, Writ in the form of this EIR and, therefore, the Writ defines the required scope of this EIR. While complying with the Writ is the appropriate overarching objective, the specific objectives of the proposed project are broader and include (see page 2-3 of the Draft EIR):

1. Provide water service to the Rancheria consistent with the May 2008 MOU.
2. Provide water service to the Rancheria in a manner consistent with EID's plans, policies, and administrative regulations.
3. Provide sufficient water service to support the consumptive and fire suppression demands of existing development on the Rancheria, including approximately 24 residences, tribal administrative buildings, the gaming facility as developed in 2008, and all landscaping and planned uses.
4. Apply for and obtain, or work with the Tribe to apply for and obtain, a decision from the El Dorado LAFCO to remove the service restrictions from the annexation conditions imposed when the El Dorado LAFCO approved the annexation of the Rancheria to EID's water service area in 1988.

EID respectfully disagrees that the proposed project objectives preclude consideration or adoption of any alternatives besides the proposed project. A number of alternatives to provide water to the Rancheria were analyzed in the Draft EIR. They include: Alternative 1 - No Project Alternative, Alternative 2 - Water Trucking Alternative, Alternative 3 - Conservation/Recycled Water Alternative,

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<sup>9</sup> Shingle Springs Rancheria, 2011. Letter from Shingle Springs Rancheria Tribal Chairman Nicholas Fonseca in response to EID Notice of Preparation for Memorandum of Understanding for Water Service to the Shingle Springs Rancheria Environmental Impact Report. February 19, 2011. See also: Shingle Springs Rancheria, 2002. Shingle Springs Band of Miwok Indians of the Shingle Springs Rancheria of El Dorado County, CA 2002 Land Use Ordinance. June 5, 2002.

Alternative 4 - Groundwater Alternative, Alternative 5 -Conjunctive Use Alternative. (Draft EIR pages 4-2 through 4-8.) Each alternative meets at least some of the project objectives, and together they span a full spectrum of potential water supply solutions – EID deliveries, trucked water, conservation, recycled water, wells, and a combination of these options. Alternatives 2 and 5 provide the full water supply called for by the MOU; 1, 3, and 4 contemplate potentially reduced water supplies. Every alternative either includes LAFCO approval or renders it inapplicable.

As discussed in Chapter 4 of the Draft EIR, section 15126.6 of the CEQA Guidelines requires an evaluation of “a range of reasonable alternatives to the project, or the location of the project, which would feasibly attain most of the basic project objectives but would avoid or substantially lessen any of the significant effects...”. The CEQA Guidelines do not require an EIR alternatives analysis to include alternatives that meet *all* project objectives. Rather, the intent of the EIR alternatives analysis is to consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation- (CEQA Guidelines section 15126.6(a). Therefore, EID believes that the alternatives selected meet CEQA’s requirement to evaluate a reasonable range of alternatives that would feasibly attain *most* of the basic project objectives (CEQA Guidelines section 15126.6(c)). Also, the alternatives analyzed in the EIR focus squarely on the key environmental issues identified in the Writ. CEQA requires alternatives to reduce or avoid significant project impacts.

As to whether the alternatives would avoid or substantially lessen identified significant impacts, no significant impacts were identified for the proposed project. However, the impacts of implementing each alternative were evaluated (pages 4-2 through 4-8) and compared to the impacts of the proposed project. The Draft EIR concludes (on pages 4-8 and 4-9) that the No Project Alternative would be the environmentally superior alternative when compared to the proposed project even though it would not achieve most of the project objectives. When the No Project Alternative is the environmentally superior alternative, CEQA Guidelines section 15126.6(e)(2) states that the EIR shall also identify an environmentally superior alternative from among the other alternatives. When none of them is environmentally superior to the proposed project, as here, it is sufficient for the EIR to explain the environmental advantages and disadvantages of each in comparison to the proposed project.

In this case, none of the remaining alternatives is environmentally superior to the proposed project. The EIR discloses that all proposed alternatives, other than the No Project Alternative, have the potential to result in greater project-specific and cumulative environmental impacts when compared with the proposed project, specifically related to air emissions, noise levels, greenhouse gas emissions, biological resources, cultural resources, water quality, groundwater resources, and transportation and circulation. Therefore, the proposed project was identified as the environmentally superior alternative.

#### **Response to Comment 4-7**

As presented in the Project Description on page 2-3 of the Draft EIR, an objective of the proposed project is for EID to apply for and obtain, or work with the Tribe to apply for and obtain, a decision from the El Dorado LAFCO to remove the service restrictions from the annexation conditions imposed

when the El Dorado LAFCO approved the annexation of the Rancheria to EID's water service area in 1988. As further described on page 2-10, such a decision from the El Dorado LAFCO is considered part of the proposed project under consideration and evaluated in the Draft EIR. It is appropriate in an EIR for a lead agency to rely on a future governmental action to conclude that an impact is less-than-significant, where, as here, the project cannot proceed without that further approval, and where, as here, there is some evidence the approval at least will be sought. *See, e.g., Endangered Habitats League v. County of Orange*, 131 Cal.App.4th 777, 792 (2005). Pursuant to the Writ, before EID can approve the MOU, the El Dorado LAFCO must remove the service restriction. That action will remove any land use inconsistency impact. If El Dorado LAFCO does not remove the service restriction, then the project would not be approved. CEQA does not require an analysis of impacts associated with not approving the proposed project, other than an analysis of the No Project Alternative. The No Project Alternative, as described on page 4-2 of the Draft EIR, assumes that conditions contained in the 1988 El Dorado LAFCO resolution would not be removed. Nor does CEQA require the EIR to speculate about the possibility that LAFCO would deny its approval, particularly when the Writ makes LAFCO's approval a precondition to EID's approval of a new MOU.

#### **Response to Comment 4-8**

As discussed in Response to Comment 4-2, Section 3.2, Tables 3.2-5 through 3.2-7 in the Draft EIR show that during normal, single dry year and multiple dry year conditions, sufficient water supply would be available to meet proposed project water demand without affecting EID's ability to serve its service area outside of the Rancheria or requiring EID to develop additional supplies or entitlements not already anticipated and in progress to meet future water demand through at least 2030. The EIR concludes that the District has the capability to respond to both near-term and long-term changing water supply conditions, including through the implementation of multiple-stage demand reduction plans. Furthermore, as described on pages 5-2 and 5-3 of the Draft EIR, the project does not necessitate or include any increases in water supply capacity beyond those already included in EID's 2010 UWMP; therefore, it would not result in direct or indirect growth inducing impacts. See also Response to Comment 4-5.

As discussed in Response to Comment 4-6, consistent with section 15126.6 of the CEQA Guidelines, a number of alternatives were analyzed in the Draft EIR. They include: Alternative 1 - No Project Alternative, Alternative 2 - Water Trucking Alternative, Alternative 3 - Conservation/Recycled Water Alternative, Alternative 4 - Groundwater Alternative, Alternative 5 - Conjunctive Use Alternative. Each alternative was discussed and analyzed pursuant to the requirements of section 15126.6.

It should be noted that Alternative 5 - Conjunctive Use Alternative, examines a scenario similar to the alternative proposed in the comment letter: increased water supply for the Rancheria but not the full amount of EID supply contemplated in the MOU. Through the Conjunctive Use Alternative, the Tribe would meet its existing and planned water supply needs of approximately 135,000 gpd through a combination of pre-MOU EID water supplies, increased water conservation efforts, increased use of recycled water, increased use of groundwater, and water trucking. Alternatives 3 and 4 also posit no increase in EID water supplies beyond the pre-MOU condition.

Pages 4-6 and 4-7 of the Draft EIR note that the Conjunctive Use Alternative would result in potentially significant new project-specific and cumulative operational impacts when compared to the proposed project, including visual impacts associated with the new above-ground facilities; increased noise levels associated with the operation of new pumps; increased noise, air quality, and greenhouse gas emissions associated with the new round trip water truck trips; new impacts associated with transportation and circulation including road maintenance and decreased levels of service along truck routes; potential new impacts to groundwater levels associated with the additional pumping of groundwater; and impacts to local water supply sources for water trucking companies. For these reasons, as more fully explained in the Draft EIR, this Alternative was determined to not be environmentally superior to the proposed project.

### **Response to Comment 4-9**

The comment cites *California Oak Foundation v. City of Santa Clarita* (2005) 133 Cal. App.4<sup>th</sup> 1219 at 1239 (*California Oak*) as cited in the *Vineyards* case to argue that the Draft EIR “fails to foster informed public participation and informed decision-making” because the WSA and IS are attached as appendices to the Draft EIR. The facts of *Vineyard* and *California Oak* bear no resemblance to this Draft EIR. In the proposed project Draft EIR, all of the analysis included in the WSA is specifically referenced, summarized, and repeated in Draft EIR Sections 3.2 and 5.2, and is included in full as Appendix C of the Draft EIR. In *Vineyard*, the court criticized the project proponent’s reliance on another agency’s water supply analysis that was not: (1) incorporated into the project’s EIR; (2) referred to at all in the project’s EIR; or (3) included in the other agency’s EIR for its project (*Vineyard*, 40 Cal.4<sup>th</sup> at 442-443). In *California Oak*, the defect was not that water supply information was “Appendix K” to the EIR; the problem was that the EIR’s discussion of water supply completely ignored the key information in that appendix, and that the appendix was not added to the EIR until shortly before it became final (*California Oak Foundation v. City of Santa Clarita* (2005) 133 Cal.App.4<sup>th</sup> 1219, 1239). Even then, the court stated that it might have overlooked these facts, except that the analysis in the appendix was itself inadequate (*Ibid*). Again, that situation contrasts starkly with the proposed project Draft EIR’s explicit summary and reference to the information in the WSA which was included as an appendix to the Draft EIR.

As described on page 1-2 of the Draft EIR, in accordance with sections 15063 and 15082 of the CEQA Guidelines, EID prepared and circulated a NOP that included a description of the proposed project and an Environmental Checklist which provided discussion of resource topics consistent with Appendix G of the CEQA Guidelines. Consistent with subsection 15063(c) (3) of the CEQA Guidelines, the Environmental Checklist discussion was used to focus the analysis to be addressed in the Draft EIR (see subsections 1.3.1 and 1.4 of the Draft EIR). The NOP was circulated for 30 days to solicit comments from agencies and the public on the proposed scope of the Draft EIR analysis. Comment letters received in response to the NOP were considered during preparation of the Draft EIR and are included in Appendix B of the Draft EIR. A public scoping meeting was also held to provide a forum for agencies and the public to learn about the proposed project and to provide comments on the proposed scope of the EIR analysis, including a preliminary list of environmental issues proposed to be focused in the EIR. No comments were received at the public scoping meeting.

The full text of the WSA, NOP and IS, and comment letters received on the NOP, are the three appendices to the Draft EIR. To argue that these documents should have been part of the Draft EIR, rather than appendices, is to elevate form over substance. “CEQA does not require that the information on impacts of diversion laid out in [a prior environmental document] be repeated in environmental documents for every development that depends on that water.” (*Vineyard, supra*, 40 Cal.4<sup>th</sup> at 442). Furthermore, the NOP IS and Draft EIR, including appendices, were all circulated for agency and public review and comment consistent with CEQA Guidelines section 15082 and 15087. The public participation and environmental review process for the proposed project is summarized in subsection 1.3 of this Final EIR.



## CHAPTER 3

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### References

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Shingle Springs Rancheria, 2011. Letter from Shingle Springs Rancheria Tribal Chairman Nicholas Fonseca in response to EID Notice of Preparation for Memorandum of Understanding for Water Service to the Shingle Springs Rancheria Environmental Impact Report. February 19, 2011.

**Appendix A**  
Draft Environmental Impact  
Report

Draft

**EL DORADO IRRIGATION DISTRICT  
MEMORANDUM OF UNDERSTANDING FOR  
WATER SERVICE TO THE SHINGLE SPRINGS  
RANCHERIA**

Environmental Impact Report  
State Clearinghouse No. 2011022045

Prepared for  
El Dorado Irrigation District

November 2011



Draft

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MEMORANDUM OF UNDERSTANDING FOR  
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## EXECUTIVE SUMMARY

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### ES.1 Introduction

This Draft Environmental Impact Report (EIR) has been prepared to comply with the California Environmental Quality Act (CEQA) (Public Resources Code sections, 21000, et seq.) of 1970 (as amended), and the CEQA Guidelines for Implementing the California Environmental Quality Act (California Code of Regulations, Title 14, sections 15000, et seq.). The El Dorado Irrigation District (EID or District), as the lead agency for CEQA compliance, will use the information in this EIR to evaluate the environmental impacts of EID providing water to the Shingle Springs Rancheria (Rancheria or Tribe) to serve existing and planned uses consistent with a 2008 Memorandum of Understanding (MOU) (proposed project); and to approve, modify, or deny approval of the proposed project. The El Dorado County Local Agency Formation Commission (LAFCO) is a responsible agency with respect to this document because it will rely on this document in granting separate approvals or making separate determinations.

### ES.2 Project Background and Objectives

#### Project Background

In 2001, the California Department of Transportation (Caltrans) and the Tribe finalized an agreement by which Caltrans would work with the Tribe so the Tribe could construct an interchange connecting Highway 50 to the Rancheria. That interchange would allow the Tribe to construct and operate a casino and hotel on the Rancheria pursuant to a gaming compact with the State of California and certain approvals from the National Indian Gaming Commission (NIGC) and the Bureau of Indian Affairs (BIA). The casino and hotel project was reviewed pursuant to National Environmental Policy Act (NEPA) and an Environmental Assessment (EA) was prepared<sup>1</sup>. Caltrans and the BIA also prepared and certified a joint EA/EIR in 2002<sup>2</sup>, which analyzed off-Rancheria impacts of the interchange and the hotel and casino. Federal courts upheld legal challenges to both the EA and joint EA/EIR. State court litigation on the joint EA/EIR resulted in Caltrans preparing a Supplemental EIR<sup>3</sup>. Ultimately, the California Court of Appeal upheld Caltrans's environmental review of the

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<sup>1</sup> National Indian Gaming Commission, *Shingle Springs Rancheria Hotel and Casino Project Final Environmental Assessment/Finding of No Significant Impact*, December 2001.

<sup>2</sup> California Department of Transportation, *Shingle Springs Interchange Project Final Environmental Impact Report/Environmental Assessment*, September 2002.

<sup>3</sup> California Department of Transportation, *Shingle Springs Interchange Project Final Supplemental Environmental Impact Report*, August 2006.

interchange and hotel and casino, and, in 2008, the California Supreme Court declined to review the case, ending the litigation. The Tribe opened the hotel and casino in late 2008.

Also in 2008, EID and the Tribe entered into a MOU stating that the District would provide the Rancheria with water service at a maximum rate of 95 gallons per minute (gpm) and an average volume of 135,000 gallons per day (gpd). This agreement provided for a net increase of 215.75 Equivalent Dwelling Units (EDU)<sup>4</sup> over the existing 45 EDUs of water service EID was already providing the Tribe.

EID's existing 45 EDU of water service to the Tribe conformed to limitations imposed in a 1988 resolution of the El Dorado LAFCO approving the petition of the Shingle Springs Rancheria to annex into the EID service area for the purpose of water service. The resolution included a condition that EID provide water for residential uses only, including accessory uses and for tribal use limited to community facilities, schools, playgrounds, recreational facilities, a residential home for tribal elders and community grazing or garden projects. A further condition limited water service to that necessary to serve a community of 40 residential lots.

In connection with its approval of the MOU, EID stated that the El Dorado LAFCO restrictions were not binding because they were in conflict with achieving congressionally approved uses of the Rancheria, including the hotel and casino, and were therefore legally preempted. The District prepared a Notice of Exemption under CEQA for adopting and implementing the MOU. Following adoption of the MOU, the Tribe completed the physical improvements on the Rancheria necessary to receive water service consistent with its provisions. Those improvements are described in Section 2, Project Description.

Approval of the MOU with a CEQA exemption was subsequently challenged in El Dorado County Superior Court (Court). In a December 15, 2009, decision (*Voices for Rural Living v. El Dorado Irrigation District, et. al.*), the Court concluded that the District's Notice of Exemption was improper. Specifically, the Court found that the administrative record contained evidence to support a fair argument that the MOU could have a significant impact on the District's cumulative water supplies, particularly during severe drought conditions. The Court, therefore, directed EID to prepare an EIR. The Court did not identify any other environmental impacts or impact categories for which substantial evidence in the record supported a fair argument that the MOU could significantly impact the environment.

On September 13, 2010, the Court issued a Peremptory Writ of Mandate (Writ), providing that EID may only adopt a MOU with the Rancheria or other agreement to provide water service to the Rancheria after EID has: (1) complied with CEQA; and (2) secured any necessary approvals from the El Dorado LAFCO. The Writ further states that EID may continue to provide water service to the Rancheria in an amount not to exceed what the MOU allows and on terms not inconsistent with the MOU, so long as the District is actively pursuing the actions described above in (1) and

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<sup>4</sup> An Equivalent Dwelling Unit is the amount of water an average single-family residence in the same part of EID's service area would consume annually.



(2). The District has prepared its response to the Writ in the form of an EIR, and the Writ, therefore, defines the required scope of the EIR analysis.

CEQA Guidelines section 15126.2 states that “[i]n assessing the impact of a proposed project on the environment, the lead agency should normally limit its examination to changes in the existing physical conditions in the affected area as they exist at the time the notice of preparation is published...”. Because all water supply improvements had already been constructed and EID was already providing water service consistent with the MOU when the notice of preparation was published, a literal reading of section 15126.2 would not produce a meaningful environmental analysis. Therefore, to provide a complete assessment of potential impacts of the proposed project and in response to the Writ, existing conditions (or baseline) regarding water supply in this analysis is defined as those water supply conditions that existed before EID approved the MOU.

Therefore, the proposed project is defined for purposes of this analysis as EID providing water service to the Shingle Springs Rancheria consistent with the MOU, the relocation of an existing flow meter vault, the abandonment in place of existing waterlines, and the installation of a new pipeline on the Rancheria to connect with EID’s existing water supply infrastructure. This analysis thus examines the environmental impacts by comparing the amount of water supplied by EID prior to adoption of the MOU with the maximum amount EID could supply pursuant to the MOU.

Proposed project objectives and elements are summarized below and are discussed in detail in Chapter 2, Project Description. Additional detail on the project background is also presented in Chapter 2.

## Project Objectives

EID’s underlying project objective is to comply with the Writ. The primary objectives of the proposed project are to:

1. Provide water service to the Rancheria consistent with the May 2008 MOU.
2. Provide water service to the Rancheria in a manner consistent with EID’s plans, policies, and administrative regulations.
3. Provide sufficient water service to support the consumptive and fire suppression demands of existing development on the Rancheria, including approximately 24 residences, tribal administrative buildings, the gaming facility as developed in 2008, and all landscaping and planned uses.
4. Apply for and obtain, or work with the Tribe to apply for and obtain, a decision from the El Dorado LAFCO to remove the service restrictions from the annexation conditions imposed when the El Dorado LAFCO approved the annexation of the Rancheria to EID’s water service area in 1988.

## ES.3 Proposed Project

Under the proposed project, EID would provide water service to the Shingle Springs Rancheria to serve consumptive needs of the Rancheria consistent with the MOU. Specific project elements are described below.

Water service would be provided through a three-inch flow meter located on the Rancheria in an approximately five-foot by seven-foot underground vault (flow meter vault) adjacent to Honpie Road. The meter would provide maximum continuous flow of 95 gpm and a maximum average daily delivery of 135,000 gpd. No physical changes would occur to EID's control, access, operation, maintenance, repair, or replacement capabilities. Water service on the Rancheria would be provided through a tribal utility district independent of EID. The new flow meter would be relocated approximately 2,000 feet to the southwest from the existing meter serving the Rancheria. The flow meter would be connected to approximately 4,025 feet of new 12-inch water supply pipeline to be installed by the Tribe on the Rancheria along Honpie Road. The underground flow meter vault would be locked and EID would have sole access. Other appurtenances adjacent to the flow meter vault would include a backflow prevention assembly structure which would be approximately four feet tall. No new infrastructure would be constructed off the Rancheria in the EID service area and existing EID operations would remain unchanged.

The proposed project would also include the abandonment-in-place of an existing six-inch EID waterline that runs just outside of the Rancheria along Artesia Road and all six-inch waterlines and service connections within the Rancheria, which extend from north of Reservation Court to the existing 12-inch line. Abandonment-in-place of the existing asbestos concrete pipeline is EID and industry standard practice and would minimize the need for additional land disturbance and prevent any release of asbestos fibers.

The Tribe installed the water service infrastructure in 2008; it has been in continuous operation since being placed into service that year. Consistent with the Writ, however, this project description and accompanying environmental analyses assess the project's environmental impacts as if these water service improvements are not yet constructed.

The Tribe is responsible for the construction of any new infrastructure on the downstream side of the three-inch meter, including backflow protection. As part of the EID's and the Tribe's respective construction responsibilities, EID would abandon existing easements on Rancheria land, and the BIA would grant EID easements for all new lines to allow EID acceptance, control, and maintenance of the facilities delivering water to the Tribe.

## Environmental Commitments

Measures to protect sensitive environmental resources during the construction phase of the proposed project have been incorporated into the proposed project. These environmental commitments are consistent with mitigation measures adopted on January 22, 2002 by the Shingle Springs Band and the NIGC as part of the Shingle Springs Rancheria Hotel and Casino Project Final EA/Finding of No Significant Impact (FONSI). The mitigation measures described in the Final

EA/FONSI (Section 6.0 Mitigation Measures) were implemented to reduce potentially significant adverse impacts associated with the development of the hotel and casino project, which included the installation of water supply infrastructure consistent with the proposed project. The MOU includes the Tribe's commitment to implement these water supply-related measures as necessary. The Shingle Springs Rancheria Hotel and Casino Project, El Dorado, California Final EA/FONSI is hereby incorporated by reference consistent with CEQA Guidelines section 15150 and is available for review at EID's main office located at 2890 Mosquito Road, Placerville, California, 95667.

The following are the environmental commitments that are part of the proposed project.

Implement construction related air quality best management practices (BMP's), rules, and guidelines, consistent with the El Dorado County Air Quality Management District, including the following:

- a. Incorporation of the following construction related BMP's contained within Chapter 8.44 of Title 8 of the El Dorado County Ordinance Code, Section 8.44.030 which specifically addresses "General Requirements for Grading, Excavation and Construction Activities."
  - o Water work areas during excavation and other ground disturbing activities at least twice daily, or more frequently if necessary to prohibit visible dust emissions.
  - o Limit vehicle access and speed.
  - o Maintain high moisture conditions or apply a "binder" to seal fibers of disturbed surfaces or stockpiles.
  - o Cover loads of excavated materials.
  - o Sweep dirt and debris that may contain asbestos from adjacent street to prevent re-suspension.

Implement the following BMPs to protect receiving water quality:

- Sediment curtains would be placed upstream and downstream of the construction zone to prevent sediment disturbed during trenching activities from being transported and deposited outside of the construction zone.
- Spoil sites such that they do not drain directly into drainages and/or seasonal wetlands. If a spoil site would be located so that they drain into a drainage channel or seasonal wetland, catch basins would be constructed to intercept sediment before it reaches the drainage or wetland. Spoil sites would be covered to reduce the potential for erosion.
- Equipment and materials would be stored away from the drainages and wetland areas. No debris shall be deposited within 25 feet of the drainages and wetland areas.

Implement the following measures to protect nesting raptors:

- Tree removal activities would be conducted before or after the raptor nesting season which runs from March 1 through August 31.
- A qualified wildlife biologist would be retained to conduct a survey for nesting raptors during the nesting season at the project site prior to construction activity (i.e., grading). Active raptor nests located within 0.25 mile of construction activity would be mapped.

- If active raptor nests are located on or within 0.25 mile of an active or scheduled construction site, then appropriate buffer zones would be established in consultation with the California Department of Fish and Game (CDFG) , and construction activities would be prohibited within this buffer zone until the end of the nesting season or until the young have fledged. A qualified wildlife biologist would monitor the nest to determine when the young have fledged and submit weekly reports to the CDFG throughout the nesting season.
- If necessary, identified nest trees would only be removed prior to the onset of the nesting season (March) or after young have fledged (August).

## ES.4 Summary of Alternatives

Alternatives evaluated in this EIR are: (1) No Project Alternative; (2) Water Trucking Alternative; (3) Conservation/Recycled Water Alternative; (4) Groundwater Alternative; and (5) Conjunctive Use Alternative. As shown in **Table ES-1** and as discussed in Chapter 4, Alternatives, the proposed project is the environmentally superior alternative. All proposed alternatives other than the No Project Alternative have the potential to result in greater environmental impacts when compared with the proposed project, specifically related to air emissions, noise levels, GHG emissions, biological resources, cultural resources, water quality, groundwater resources, and transportation and circulation. Furthermore, while all of the alternatives would meet some of the project objectives, only the proposed project would achieve all of the project objectives. A summary of the effects of each alternative compared to the proposed project is included in Table ES-1. Further information about the proposed project alternatives can be found in Chapter 4, Alternatives.

## ES.5 Potential Areas of Controversy

EID submitted a Notice of Preparation (NOP) for this Draft EIR to the California Office of Planning and Research on February 11, 2011. EID circulated the NOP to a list of local, state and federal agencies for 30 days ending March 14, 2011. The NOP included a project description and Initial Study Checklist which provided discussion of resource topics consistent with Appendix G of the CEQA Guidelines. The NOP, including the Initial Study Checklist and list of agencies that received the NOP, is included in Appendix A. EID considered comment letters it received in response to the NOP during preparation of this Draft EIR and those letters constitute Appendix B.

Issues raised in the NOP comment letters have been addressed in the Draft EIR or the Initial Study Checklist, as appropriate and are summarized below in **Table ES-2**.

**TABLE ES-1  
COMPARISON OF ENVIRONMENTAL EFFECTS OF THE  
ALTERNATIVES TO THE PROPOSED PROJECT**

Environmental Issue Area	Proposed Project	No Project	Water Trucking	Conservation/ Recycled Water	Groundwater	Conjunctive Use
Aesthetics	LS	-	+	+	+	+
Agriculture and Forestry	NI	0	0	0	0	0
Air Quality	LS	-	+	+	+	+
Biological Resources	LS	-	+	+	+	+
Cultural Resources	LS	-	+	+	+	+
Geology/Soils	LS	-	+	+	+	+
Greenhouse Gas Emissions	LS	-	+	+	+	+
Hazards/ Hazardous Materials	LS	-	0	0	0	0
Hydrology/Water Quality	LS	-	+	+	+	+
Land Use/Planning	LS	-	0	0	0	0
Mineral Resources	NI	0	0	0	0	0
Noise	LS	-	+	+	+	+
Population/Housing	LS	-	0	0	0	0
Public Services	NI	0	0	0	0	0
Recreation	LS	-	0	0	0	0
Transportation/Traffic	LS	-	+	0	0	+
Water Supply	LS	-	+	-	+	+
Cumulative Water Supply	LS	-	-	-	-	-

NI = No Impact  
LS = Less than Significant Impact  
When compared to the proposed project would the Alternative:  
Substantially Lessen or Avoid Impact (-)  
Result in Increased Impact (+)  
Result in Same Impact (0)

**TABLE ES-2  
COMMENTS RECEIVED**

Agency/Organization	Name	Title	Summary of Comments
State of California Department of Transportation, District 3	Eric Fredericks	Chief Office of Transportation Planning - South	Request that if work is within a State right-of-way that a Caltrans Encroachment Permit be obtained. Request that EID identify potential increases in surface water runoff discharge within State right-of-way and that any increase be reduced to pre-construction levels and meet Regional Water Quality Control Board requirements.
Shingle Springs Rancheria Band of Miwok Indians	Nicholas Fonseca	Chairman	Confirmation that Tribe is unaware of any reasonably-foreseeable, probable future projects related to the MOU or any proposal to change the use of tribal land in reliance on the MOU for water service.
Native American Heritage Commission	Katy Sanchez	Program Analyst	No comments.

As summarized above in subsection ES.2, and described in detail in Chapter 2, Project Description, EID’s approval of the MOU with a CEQA exemption was challenged in El Dorado County Superior Court (Court). In a December 15, 2009, the Court concluded that, based on the administrative record then before it, the District’s Notice of Exemption was improper. Specifically, the Court found that the administrative record contained evidence to support a fair argument that the MOU could have a significant impact on the District’s cumulative water supplies, particularly during severe drought conditions. The Court subsequently issued a Writ, in which it directed EID to comply with CEQA. The Court also ruled that the District or the Tribe must apply for and obtain a decision from the El Dorado LAFCO to remove the service restrictions from the annexation conditions when the El Dorado LAFCO approved the annexation of the Rancheria to EID’s water service area in 1988.

## ES.6 Scope of the EIR

The Initial Study Checklist (Appendix A) includes a discussion of potential environmental effects of the proposed project, identifies which issues do not have the potential to impact the environment, and recommends which issues require further analysis in this Draft EIR. Based on the Initial Study Checklist, and on the scoping comments received, the following issues were identified to be addressed in this Draft EIR:

- **Water Supply.** Effects of providing water supply to the Rancheria to serve existing and planned uses consistent with the MOU.

All other environmental resource topics evaluated in the Initial Study Checklist were determined to be less than significant or not an impact of the proposed project and have not been carried forward for analysis in this Draft EIR. These resource topics are listed below. A detailed discussion of these topic areas is provided in the Initial Study Checklist (Appendix A).

## ES.7 Summary of Impacts and Mitigation Measures

**Table ES-3** presents a summary of the environmental impacts, including the level of significance that would occur with implementation of the proposed project. Detailed discussion of project impacts is presented in Section 3.2, Water Supply.

**TABLE ES-3  
SUMMARY OF IMPACTS AND MITIGATION MEASURES**

Environmental Impact	Impact Significance before Mitigation	Mitigation Measures	Impact Significance after Mitigation
<b>Water Supply</b>			
<b>Impact 3.2.1:</b> New or expanded water supply or entitlements could be needed to meet existing and future water demand during normal and dry years on the Rancheria and in the EID service area outside of the Rancheria.	Less than Significant	None required	Less than Significant

## CHAPTER 1

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### Introduction

#### 1.1 Introduction

The El Dorado Irrigation District (EID or District) proposes to adopt a Memorandum of Understanding (MOU) under which EID would provide water service to the Shingle Springs Rancheria (Rancheria or Tribe) consistent with the terms of an MOU previously entered into in 2008 (proposed project). Commercial development on the Rancheria has already occurred, independent of the MOU. The proposed project includes relocation of an existing flow meter vault, and the installation of a new pipeline by the Tribe along Honpie Road on the Rancheria to connect with EID's existing water supply infrastructure. Existing EID water lines within and adjoining the Rancheria would be disconnected and abandoned in place. No new infrastructure would be constructed off the Rancheria in the EID service area, and existing EID operations would remain unchanged. The meter would limit maximum continuous flow to 95 gallons per minute (gpm) and a maximum average daily delivery of 135,000 gallons per day (gpd). A detailed description of the proposed project is included in Chapter 2, Project Description.

#### 1.2 Intended Uses of this EIR

This Draft Environmental Impact Report (EIR) has been prepared in conformance with the California Environmental Quality Act (CEQA) (Public Resources Code sections 21000, et seq.) of 1970 (as amended), and the CEQA Guidelines for Implementing the California Environmental Quality Act (California Code of Regulations, Title 14 sections 15000 et seq.). As described in CEQA Guidelines section 15121(a), an EIR is a public information document that objectively assesses and discloses potential environmental effects of the proposed project, and identifies mitigation measures and alternatives to the proposed project that would reduce or avoid adverse environmental impacts. CEQA requires that lead, responsible or trustee agencies consider the environmental consequences of projects over which they have discretionary authority. EID, as the lead agency for the proposed project, will use the information in this EIR to evaluate the proposed project's potential environmental impacts; to determine whether any feasible mitigation measures are necessary and available to reduce potentially significant environmental impacts; to approve, modify, or deny approval of the proposed project; and to comply with a Peremptory Writ of Mandate issued by the El Dorado County Superior Court in the case of *Voices for Rural Living v. El Dorado Irrigation District, et al.* (Writ). Pursuant to the Writ, EID or the Tribe must also apply for, and obtain a decision from the El Dorado Local Agency Formation Commission (El Dorado LAFCO) to remove the service restrictions from the annexation conditions imposed by the El Dorado LAFCO when it approved

the annexation of the Rancheria to EID's water service area in 1988. EID expects the El Dorado LAFCO to use this EIR as a CEQA responsible agency in making its decision regarding a request from EID or the Tribe for this decision.

### **1.3 Environmental Review and Approval Process**

The preparation of an EIR involves multiple steps in which the public is provided the opportunity to review and comment on the scope of the analysis, content of the EIR, results and conclusions presented, and the overall adequacy of the document to meet the substantive requirements of CEQA. The following describes the steps in the environmental review process for the proposed project.

#### **1.3.1 Notice of Preparation and Scoping**

In accordance with sections 15063 and 15082 of the CEQA Guidelines, EID prepared a Notice of Preparation (NOP) of an EIR and published it on February 11, 2011. EID circulated the NOP to a list of local, state and federal agencies for 30 days ending on March 14, 2011. The NOP included a project description and Environmental Checklist which provided discussion of resource topics consistent with Appendix G of the CEQA Guidelines. The NOP, including the Environmental Checklist and list of agencies that received the NOP, is included in Appendix A. The Environmental Checklist discussion was used to focus the analysis to be addressed in the EIR (see subsection 1.4 below). Comment letters received in response to the NOP were considered during preparation of this Draft EIR and are included in Appendix B. A public scoping meeting was held on March 3, 2011. The purpose of the public scoping meeting was to provide a forum for the public to learn about the proposed project and to provide comments on the proposed scope of the EIR analysis. No comments were received at the public scoping meeting.

#### **1.3.2 The Draft EIR**

This Draft EIR will be published and made available to local, state, and federal agencies and to interested organizations and individuals who may want to review and comment on the adequacy of the analysis included in the EIR. Notice of this Draft EIR will be sent directly to the agencies that commented on the NOP. The 45-day public review period for this Draft EIR will be from November 18, 2011 through January 16, 2012 ending at 5 PM. During the public comment period, written comments should be mailed or hand delivered to:

Dan Corcoran, Environmental Manager  
El Dorado Irrigation District  
2890 Mosquito Rd  
Placerville, CA 95667  
dcorcoran@eid.org

During the public review period, EID will conduct a public meeting to receive oral comment on the adequacy of the analysis included in the Draft EIR. The public meeting will be held on Monday,



December 5, 2011 at 6 PM at the El Dorado Irrigation District Customer Service Building, Sly Park Conference Room 2890 Mosquito Road, Placerville, California, 95667.

The Draft EIR is also available for review at the following locations:

- El Dorado Hills Public Library 7455 Silva Valley Parkway, El Dorado Hills, CA
- Placerville Main Library 345 Fair Lane, Placerville, CA
- EID Customer Service Building 2890 Mosquito Road, Placerville, CA
- EID Website at [www.eid.org](http://www.eid.org)

### **1.3.3 The Final EIR**

Written and oral comments received on the Draft EIR during the public review period will be addressed in a Response to Comments document which, together with the Draft EIR and any changes to the Draft EIR made in response to comments received thereon, will constitute the Final EIR.

### **1.3.4 Final EID Decision**

Following review of the Final EIR, the EID Board of Directors (EID Board) will decide whether to certify the Final EIR as complying with CEQA and reflecting the EID Board's independent judgment and analysis (CEQA Guidelines section 15090). Following certification of the EIR, the EID Board will take action on the proposed project. Should the EID Board decide in favor of the project, as proposed or as modified, it will proceed with project approval actions and direct that EID staff take the necessary steps to implement the Board's final decision.

EID or the Tribe must also apply for, and obtain a decision from the El Dorado LAFCO to remove the service restrictions from the annexation conditions the El Dorado LAFCO imposed when it approved the annexation of the Rancheria to EID's water service area in 1988.

EID must file a Return to the Court's Writ, demonstrating compliance with its requirements, and requesting that the Court discharge the Writ.

### **1.3.5 Mitigation Monitoring and Reporting Program**

Public Resources Code section 21081.6(a) requires lead agencies to "adopt a reporting and mitigation monitoring program for the changes to the project which it has adopted or made a condition of project approval in order to mitigate or avoid significant effects on the environment." The CEQA Guidelines do not require that the specific reporting or monitoring program be included in the Draft EIR.

No significant impacts were identified for the proposed project; therefore, no mitigation measures were necessary and a Mitigation Monitoring and Reporting Program is not required and is not included as part of the EIR.

## 1.4 Scope of this EIR

As previously discussed, EID prepared an Initial Study Checklist for the proposed project. The checklist is in Appendix A. The Initial Study Checklist includes a discussion of potential environmental effects of the proposed project, identifies which issues do not have the potential to impact the environment, and recommends which issues require further analysis in this Draft EIR. Based on the Initial Study Checklist, EID identified the following issues to be addressed in this Draft EIR:

- **Water Supply.** Effects of providing water supply to the Rancheria to serve existing and planned uses consistent with the MOU.

All other environmental resource topics evaluated in the Environmental Checklist were determined to be less than significant or have no impact and were not carried forward for analysis in this Draft EIR. These resource topics are listed below. A detailed discussion of these topic areas is provided in the Initial Study Checklist (Appendix A).

- Aesthetics
- Agriculture and Forest Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Geology, Soils, and Seismicity
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Land Use Planning
- Mineral Resources
- Noise
- Population and Housing
- Public Services
- Recreation
- Transportation and Traffic

## 1.5 EIR Organization

This Draft EIR is organized as follows:

**Executive Summary.** The Executive Summary presents a summary of the project description, a description of issues to be resolved, and a summary table listing the impacts that would result from project implementation, and their level of significance.

**Chapter 1 Introduction.** Chapter 1 describes the intended uses of this EIR, the environmental review and approval process, document organization and a list of acronyms and abbreviations.

**Chapter 2 Project Description.** Chapter 2 presents an overview of the proposed project, outlines the project objectives, and summarizes the components of the proposed project.

**Chapter 3 Environmental Setting, Impacts and Mitigation Measures.** Chapter 3 describes the existing environmental setting, and discusses the environmental impacts of the proposed project on EID's overall water supply and water supply availability.

**Chapter 4 Alternatives.** Chapter 4 describes potential alternatives to the proposed project, along with an analysis of ability to meet proposed project objectives and differences in level of environmental impact.

**Chapter 5 Other CEQA Considerations.** Chapter 5 discusses other CEQA issues, including growth inducing impacts, cumulative impacts, significant unavoidable impacts on the environment, and significant irreversible environmental changes.

**Chapter 6 Draft EIR Authors.** Chapter 6 provides the names of the Draft EIR authors and consultants, and agencies or individuals consulted during preparation of the Draft EIR.

**Chapter 7 Bibliography.** This chapter lists all the references cited in the Draft EIR.

**Appendices.** The appendices include materials that support the findings and conclusions presented in the text of the Draft EIR.

## 1.6 Acronyms and Abbreviations

AF	acre feet
AFY	acre-feet per year
BIA	Bureau of Indian Affairs
BMP	best management practices
CABY	Cosumnes, American, Bear, and Yuba (Rivers)
Caltrans	California Department of Transportation
CDFG	California Department of Fish and Game
CEQA	California Environmental Quality Act
County	El Dorado County
District	El Dorado Irrigation District (also EID)
DWR	Department of Water Resources
EA	Environmental Assessment
EDCWA	El Dorado County Water Agency
EDU	Equivalent Dwelling Units

EDWPA	El Dorado Water and Power Authority
EID	El Dorado Irrigation District (also District)
EID Board	EID Board of Directors
EIR	Environmental Impact Report
El Dorado LAFCO	El Dorado Local Agency Formation Commission
ETo	evapotranspiration
FONSI	Finding of No Significant Impact
GHG	greenhouse gas
gpd	gallons per day
gpm	gallons per minute
IRWMP	Integrated Regional Water Management Plan
IWRMP	Integrated Water Resources Management Plan
MG	million gallons
MOU	Memorandum of Understanding
NEPA	National Environmental Policy Act
NIGC	National Indian Gaming Commission
NOP	Notice of Preparation
Plan	Water Resources Development and Management Plan
PRC	Public Resources Code
Rancheria	Shingle Springs Rancheria (also Tribe)
SMUD	Sacramento Municipal Utilities District
Tribe	Shingle Springs Rancheria (also Rancheria)
USBR	US Bureau of Reclamation
USNWS	United States National Weather Service
UWMP	Urban Water Management Plan
WSA	Water Supply Assessment

## CHAPTER 2

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### Project Description

#### 2.1 Project Background and Overview

In 2001, the California Department of Transportation (Caltrans) and the Tribe finalized an agreement by which Caltrans would work with the Tribe so the Tribe could construct an interchange connecting Highway 50 to the Rancheria. That interchange would allow the Tribe to construct and operate a casino and hotel on the Rancheria pursuant to a gaming compact with the State of California and certain approvals from the National Indian Gaming Commission (NIGC) and the Bureau of Indian Affairs (BIA). The casino and hotel project was reviewed pursuant to National Environmental Policy Act (NEPA) and an Environmental Assessment (EA) was prepared.<sup>1</sup> Caltrans and the BIA also prepared and certified a joint EA/EIR in 2002,<sup>2</sup> which analyzed off-Rancheria impacts of the interchange and the hotel and casino. Federal courts upheld legal challenges to both the EA and joint EA/EIR. State litigation on the joint EA/EIR resulted in Caltrans preparing a Supplemental EIR.<sup>3</sup> Ultimately, the California Court of Appeal upheld Caltrans's environmental review of the interchange and hotel and casino, and, in 2008, the California Supreme Court declined to review the case, ending the litigation. The Tribe opened the hotel and casino in 2008.

Also in 2008, EID and the Tribe entered into a MOU stating that the District would provide the Rancheria with water service at a maximum rate of 95 gpm and an average volume of 135,000 gpd. This agreement provided for a net increase of 215.75 Equivalent Dwelling Units (EDU)<sup>4</sup> over the existing 45 EDU of water service EID was already providing the Tribe.

EID's existing 45 EDU of water service to the Tribe conformed to limitations imposed in a 1988 resolution of the El Dorado LAFCO approving the petition of the Shingle Springs Rancheria to annex into the EID service area for the purpose of water service. The resolution included a condition that EID provide water for residential uses only, including accessory uses and for tribal use limited to community facilities, schools, playgrounds, recreational facilities, a residential home for tribal elders and community grazing or garden projects. A further condition limited water service to that necessary to serve a community of 40 residential lots. In connection with its approval of the MOU, EID stated that the El Dorado LAFCO restrictions were not binding because they were in conflict

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<sup>1</sup> National Indian Gaming Commission, *Shingle Springs Rancheria Hotel and Casino Project Final Environmental Assessment/Finding of No Significant Impact*, December 2001.

<sup>2</sup> California Department of Transportation, *Shingle Springs Interchange Project Final Environmental Impact Report/Environmental Assessment*, September 2002

<sup>3</sup> California Department of Transportation, *Shingle Springs Interchange Project Final Supplemental Environmental Impact Report*, August 2006.

<sup>4</sup> An Equivalent Dwelling Unit is the amount of water an average single-family residence in the same part of EID's service area would consume annually.

with achieving congressionally approved uses of the Rancheria, including the hotel and casino, and were therefore legally preempted. The District prepared a Notice of Exemption under CEQA for adopting and implementing the MOU. Following adoption of the MOU, the Tribe completed the physical improvements necessary to receive water service consistent with its provisions. Those improvements are described below in subsection 2.5.

Approval of the MOU with a CEQA exemption was subsequently challenged in El Dorado County Superior Court (Court). In a December 15, 2009, decision (*Voices for Rural Living v. El Dorado Irrigation District, et. al.*), the Court concluded that, based on the administrative record then before it, the District's Notice of Exemption was improper. Specifically, the Court found that the administrative record contained evidence to support a fair argument that the MOU could have a significant impact on the District's cumulative water supplies, particularly during severe drought conditions. The Court, therefore, directed EID to prepare an EIR. The Court did not identify any other environmental impacts or impact categories for which substantial evidence in the record supported a fair argument that the MOU could significantly impact the environment.

On September 13, 2010, the Court issued a Peremptory Writ of Mandate (Writ), providing that EID may only adopt a MOU with the Rancheria or other agreement to provide water service to the Rancheria after EID has: (1) complied with CEQA; and (2) secured any necessary approvals from the El Dorado LAFCO. The Writ further states that EID may continue to provide water service to the Rancheria in an amount not to exceed what the MOU allows and on terms not inconsistent with the MOU, so long as the District is actively pursuing the actions described above in (1) and (2). The District has prepared its response to the Writ in the form of an EIR, and the Writ; therefore, defines the required scope of the EIR analysis.

CEQA Guidelines section 15126.2 states that "[i]n assessing the impact of a proposed project on the environment, the lead agency should normally limit its examination to changes in the existing physical conditions in the affected area as they exist at the time the notice of preparation is published...". Because all water supply improvements had already been constructed and EID was already providing water service consistent with the MOU when the notice of preparation was published, a literal reading of section 15126.2 would not produce a meaningful environmental analysis. Therefore, to provide a complete assessment of potential impacts of the proposed project and in response to the Court decision, existing conditions (or baseline) regarding water supply in this analysis has been defined as those water supply conditions that existed before EID approved the MOU.

Therefore, the proposed project is defined for purposes of this analysis as EID providing water service to the Shingle Springs Rancheria consistent with the MOU, the relocation of an existing flow meter vault, the abandonment-in-place of existing waterlines, and the installation of a new pipeline on the Rancheria to connect with EID's existing water supply infrastructure. This analysis therefore examines the environmental impacts by comparing the amount of water supplied by EID prior to adoption of the MOU with the maximum amount EID could supply pursuant to the MOU. A detailed discussion of proposed project elements is provided in subsection 2.5.

The previous environmental reviews outlined above identified two potentially feasible options for providing water service to the casino and hotel: importation of water using water trucks, and delivery from EID. The use of water from EID to meet consumptive demands on the Rancheria is the subject of this environmental review and the proposed project.

## 2.2 Project Location and Existing Uses

The Shingle Springs Rancheria is on the north side of Highway 50, approximately 10 miles west of Placerville (See **Figure 2-1**). The Rancheria encompasses approximately 160 acres. The approximately 215 square-mile District service area is located on the western slope of the Sierra Nevada in El Dorado County (see Figure 2-1) in two major watersheds, the South Fork of the American River to the north and the North Fork of the Cosumnes River to the south. The District is hydrologically split by the Placerville Ridge and Highway 50. Although the rivers drain east to west, the minor streams trend northwest toward the American River and southwest toward the Cosumnes River.<sup>5</sup> Generally, EID's service area stretches from Pollock Pines and Jenkinson Lake to the east to the El Dorado/Sacramento County border on the west, and includes service within the cities and communities of Placerville, Shingle Springs, Cameron Park, El Dorado Hills, Diamond Springs, Camino, and Pollock Pines.

Proposed infrastructure improvements would be installed by the Tribe on the Rancheria approximately 2,000 feet southwest of the present location and connected to an existing water line located along Honpie Road serving the Rancheria (see **Figure 2-2**). Both the existing water line and the water line connecting the relocated meter are located entirely on the Rancheria, which is federal land.

## 2.3 Project Objectives

EID's underlying project objective is to comply with the Writ. The primary objectives of the proposed project are to:

1. Provide water service to the Rancheria consistent with the May 2008 MOU.
2. Provide water service to the Rancheria in a manner consistent with EID's plans, policies, and administrative regulations.
3. Provide sufficient water service to support the consumptive and fire suppression demands of existing development on the Rancheria, including approximately 24 residences, tribal administrative buildings, the gaming facility as developed in 2008, and all landscaping and planned uses.
4. Apply for and obtain, or work with the Tribe to apply for and obtain, a decision from the El Dorado LAFCO to remove the service restrictions from the annexation conditions imposed when the El Dorado LAFCO approved the annexation of the Rancheria to EID's water service area in 1988.

<sup>5</sup> El Dorado Irrigation District, 2011. *Urban Water Management Plan 2010 Update El Dorado County, California*, July 2011.

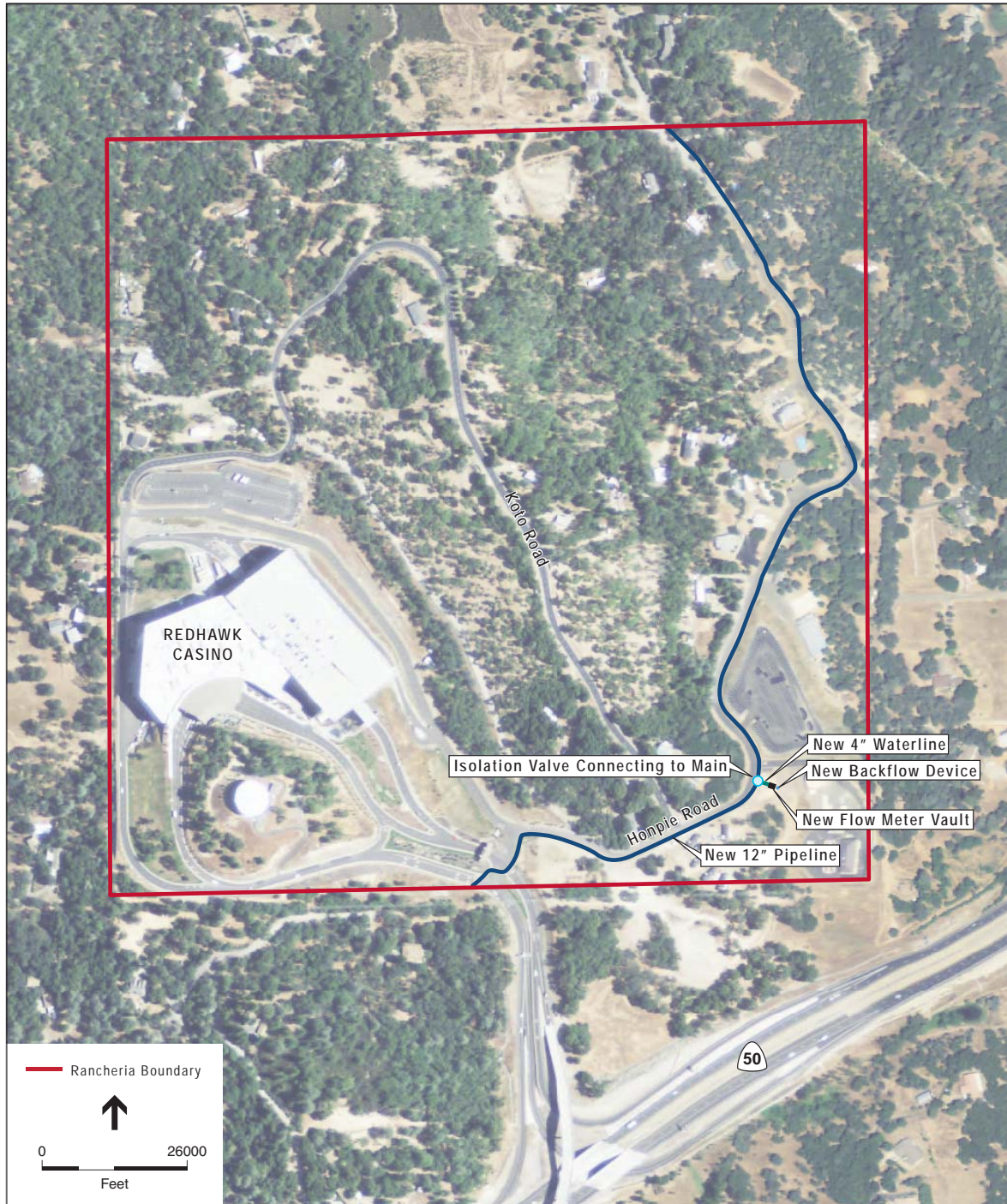


SOURCE: DeLorme Street Atlas, 2000; and ESA, 2011

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**Figure 2-1**  
Regional Location Map





SOURCE: EID, 2010; and ESA, 2011

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**Figure 2-2**  
Project Facilities

## 2.4 Existing Operations

The following summarizes existing EID operations.

### 2.4.1 Existing EID Operations

EID serves drinking water to approximately 110,000 people through more than 38,000 active service connections. EID relies entirely on surface water to meet its potable water demand. EID's transmission system is composed of three subsystems: the El Dorado Forebay subsystem; the Jenkinson Lake subsystem; and the Folsom Lake subsystem. The three main diversion points for the system are District-owned and -operated Sly Park Dam and Jenkinson Lake, the District's hydroelectric Project 184 at Forebay Reservoir, and Folsom Lake, where the District has rights under a Water Service Contract and a Warren Act Contract with the US Bureau of Reclamation (USBR), and State Water Right Permit 21112. The District also has two satellite diversions, providing service to Outingdale via a diversion from the Middle Fork of the Cosumnes River and to the community of Strawberry via a diversion on the upper South Fork of the American River.<sup>6</sup>

Water conveyance through the distribution system includes a combination of pipelines, regulating reservoirs, tanks, and a limited number of gold rush era ditches. The ditch system that delivers raw water to agricultural users and a water treatment facility is composed of 26.5 miles of ditch, 15 percent of which is piped. The piped potable system consists of 1,239 miles of pipe ranging in size from 2 inches to 48 inches. The District has a total of 36 tanks and reservoirs with a combined storage capacity of 72.2 million gallons (MG). EID water storage facilities include 41,033 acre-feet (AF) in Jenkinson Lake, 1,125 AF in Weber Reservoir, and a total of approximately 37,500 AF in Project 184 storage (Lake Aloha and Caples, Silver, and Echo lakes).<sup>7</sup>

In the El Dorado Forebay subsystem, water is treated at the Forebay water treatment plant (26 mgd capacity) located in Pollock Pines. Water in the Jenkinson Lake subsystem is treated at the Sly Park water treatment plant (64 mgd capacity). The Folsom Lake subsystem conveys treated water from the El Dorado Hills water treatment plant (26.5 mgd capacity).<sup>8</sup>

#### **Water Use by Demand Type**

The historic and projected EID service area populations, water demand, and water supply for the District in a normal water year are identified in **Table 2-1**. Projected demands are based on the growth and population assumptions contained in the 2010 Urban Water Management Plan (UWMP).<sup>9</sup> Projections were developed based on historical growth patterns, market research, and new housing unit commitments (i.e., issued permits or approved subdivisions) for the near future. Since 2005, EID's service area population has grown at an annual rate of 2.8 percent, compared with a state annualized growth rate of 1.4 percent. The District estimates that its demand will

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<sup>6</sup> El Dorado Irrigation District, 2011. *Urban Water Management Plan 2010 Update El Dorado County, California*, July 2011.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

increase in accordance with this population increase through 2030, corresponding to a demand projection of approximately 69,620 acre-feet per year (AFY) by the year 2030. Demand reductions as a result of conservation efforts are not included in these projections.<sup>10</sup> For additional information regarding EID water supply and demand, please refer to Section 3.2, Water Supply, and to the Water Supply Assessment (WSA) included in Appendix C.

**TABLE 2-1  
HISTORIC (2007 AND 2010) AND PROJECTED (2015-2030)  
EID SERVICE AREA POPULATION, WATER DEMANDS, AND WATER SUPPLY**

	Units	2007 <sup>a, b</sup>	2010	2015	2020	2025	2030
Population	Persons	112,937	110,000	112,200	122,100	132,000	142,560
EID User Water Demand (total)	AFY	35,003	27,761	42,829	45,825	52,750	61,328
Sales to Other Water Agencies	AFY	1,960	1,155	1,200	1,215	1,275	1,330
Additional Water uses and Losses	AFY	5,577	4,764	4,892	5,227	6,003	6,962
Total Demand (without Project)	AFY	43,967	33,680	48,921	52,267	60,028	69,620
Total Supply (Normal Year)	AFY	60,550	70,274	79,046	110,568	112,420	122,420

a. Population Data: EID 2008b, 2010a

b. Water Data: EID 2010b; Tables 27 and 28 for the year 2007 as derived from the 2007 Consumption and Diversion Reports

SOURCE: Reported or calculated based on Kennedy Jenks (2011), EID (2011c)

The District adopted a Drought Preparedness Plan in January 2008. The Plan presents the actions and procedures for preparing for, identifying, and responding to a drought. The objective of the Plan is to help EID preserve essential public services and to minimize the effects of a water shortage on public health and safety, economic activity, environmental resources, and individual lifestyle.<sup>11</sup> Implementation of the Plan involves both voluntary response actions and mandatory response actions, depending on water supply conditions. Voluntary and mandatory actions apply to all EID customers, including the Tribe.

## 2.5 Project Elements

Under the proposed project, EID would provide water service to serve consumptive needs of the Rancheria consistent with the MOU. Specific project elements are described below.

Water service would be provided through a three-inch flow meter located on the Rancheria in an approximately five-foot by seven-foot underground vault (flow meter vault) adjacent to Honpie Road. The meter would provide maximum continuous flow of 95 gpm and a maximum average daily delivery of 135,000 gpd. No physical changes would occur to EID's control, access, operation, maintenance, repair, or replacement capabilities. Water service on the Rancheria would be provided through a tribal utility district independent of EID. The new flow meter would be relocated approximately 2,000 feet to the southwest from the existing meter serving the Rancheria. The flow meter would be connected to approximately 4,025 feet of new 12-inch water supply pipeline

<sup>10</sup> El Dorado Irrigation District, 2011c. *Urban Water Management Plan 2010 Update El Dorado County, California*, July 2011.

<sup>11</sup> El Dorado Irrigation District, 2008a. *Drought Preparedness Plan*, January 2008.

to be installed by the Tribe on the Rancheria along Honpie Road. The underground flow meter vault would be locked and EID would have sole access. Other appurtenances adjacent to the flow meter vault include a backflow prevention assembly structure which would be approximately four feet tall. No new infrastructure would be constructed off the Rancheria in the EID service area and existing EID operations would remain unchanged.

The proposed project would also include the –in-place of an existing six-inch EID waterline that runs just outside of the Rancheria along Artesia Road and all six-inch waterlines and service connections within the Rancheria, which extend from north of Reservation Court to the existing 12-inch line. Abandonment-in-place of the existing asbestos concrete pipeline is EID and industry standard practice that would minimize the need for additional land disturbance and prevent any release of asbestos fibers.

The Tribe installed the water service infrastructure in 2008; it has been in continuous operation since being placed into service that year. Consistent with the Writ and as described in subsection 2.1, however, this project description and accompanying environmental analyses assess the project’s environmental impacts as if these water service improvements are not constructed.

The Tribe is responsible for the construction of any new infrastructure on the downstream side of the three-inch meter, including backflow protection. As part of the EID’s and the Tribe’s respective construction responsibilities, EID would abandon existing easements on Rancheria land, and the BIA would grant EID easements for all new lines to allow EID acceptance, control, and maintenance of the facilities delivering water to the Tribe.

## **2.5.1 Environmental Commitments**

Measures to protect sensitive environmental resources during the construction phase of the proposed project have been incorporated into the proposed project. These environmental commitments are consistent with mitigation measures adopted on January 22, 2002 by the Shingle Springs Band and the NIGC as part of the Shingle Springs Rancheria Hotel and Casino Project Final EA/Finding of No Significant Impact (FONSI). The mitigation measures described in the Final EA/FONSI (Section 6.0 Mitigation Measures) were implemented to reduce potentially significant adverse impacts associated with the development of the hotel and casino project, which included the installation of water supply infrastructure consistent with the proposed project. The MOU includes the Tribe’s commitment to implement these water supply-related measures as necessary. The Shingle Springs Rancheria Hotel and Casino Project, El Dorado, California Final EA/FONSI is hereby incorporated by reference consistent with CEQA Guidelines section 15150 and is available for review at EID’s main office located at 2890 Mosquito Road, Placerville, California, 95667.

The following are the environmental commitments that are part of the proposed project.

Implement construction related air quality best management practices (BMP’s), rules, and guidelines, consistent with the El Dorado County Air Quality Management District, including the following:

- a. Incorporation of the following construction related BMP's contained within Chapter 8.44 of Title 8 of the El Dorado County Ordinance Code, Section 8.44.030 which specifically addresses "General Requirements for Grading, Excavation and Construction Activities."
  - o Water work areas during excavation and other ground disturbing activities at least twice daily, or more frequently if necessary to prohibit visible dust emissions.
  - o Limit vehicle access and speed.
  - o Maintain high moisture conditions or apply a "binder" to seal fibers of disturbed surfaces or stockpiles.
  - o Cover loads of excavated materials.
  - o Sweep dirt and debris that may contain asbestos from adjacent street to prevent re-suspension.

Implement the following BMPs to protect receiving water quality:

- Sediment curtains would be placed upstream and downstream of the construction zone to prevent sediment disturbed during trenching activities from being transported and deposited outside of the construction zone.
- Spoil sites such that they do not drain directly into drainages and/or seasonal wetlands. If a spoil site would be located so that they drain into a drainage channel or seasonal wetland, catch basins would be constructed to intercept sediment before it reaches the drainage or wetland. Spoil sites would be covered to reduce the potential for erosion.
- Equipment and materials would be stored away from the drainages and wetland areas. No debris shall be deposited within 25 feet of the drainages and wetland areas.

Implement the following measures to protect nesting raptors:

- Tree removal activities would be conducted before or after the raptor nesting season which runs from March 1 through August 31.
- A qualified wildlife biologist would be retained to conduct a survey for nesting raptors during the nesting season at the project site prior to construction activity (i.e., grading). Active raptor nests located within 0.25 mile of construction activity would be mapped.
- If active raptor nests are located on or within 0.25 mile of an active or scheduled construction site, then appropriate buffer zones would be established in consultation with the California Department of Fish and Game (CDFG) , and construction activities would be prohibited within this buffer zone until the end of the nesting season or until the young have fledged. A qualified wildlife biologist would monitor the nest to determine when the young have fledged and submit weekly reports to the CDFG throughout the nesting season.
- If necessary, identified nest trees would only be removed prior to the onset of the nesting season (March) or after young have fledged (August).

## 2.6 Construction Considerations

The proposed 4,025-foot pipeline trench on the Rancheria would be two feet wide by six feet deep. Although the length of pipeline installed would vary on a daily basis, it is anticipated an average of 150 to 200 feet of pipeline would be installed daily and installation would occur over

the course of 20 to 27 days. All excavated material would be used as backfill or deposited onsite and no soils material hauling would be required. Construction equipment required for the proposed project would include a 24-inch bucket excavator and up to two pick-up trucks.

Construction activities would be conducted in conformance with the environmental commitments presented under subsection 2.5.1.

## **2.7 Anticipated Regulatory Requirements and Permits**

As the lead agency, EID will make a decision on whether or not to certify the EIR for the proposed project as adequate in compliance with CEQA. As part of the project, the District proposes to apply for and obtain, or assist the Tribe in applying for and obtaining, a decision from the El Dorado LAFCO to remove the service restrictions from the annexation conditions imposed by the El Dorado LAFCO when it approved the annexation of the Rancheria to EID's water service area in 1988.

## CHAPTER 3

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# Environmental Setting, Impacts, and Mitigation Measures

### 3.1 Introduction to the Analysis

#### 3.1.1 Scope of the Draft EIR

Chapter 3, Environmental Setting, Impacts and Mitigation Measures, presents the environmental and regulatory setting, impacts, and mitigation measures (if any) for the environmental resource area(s) evaluated in the Draft EIR. As stated in Chapters 1 and 2, the Writ dictates the overall scope of the EIR. Further, based on the NOP and attached Initial Study Checklist (Appendix A), and on the scoping comments received (Appendix B), the following issue was identified to be addressed in this Draft EIR:

- **Water Supply.** Effects of providing water supply to the Rancheria to serve existing and planned uses consistent with the MOU.

#### 3.1.2 Section Format

The technical section (Water Supply) contains: (1) identification of the issue areas being evaluated; (2) any comments received on the NOP for the issue area; (3) environmental and regulatory setting; (4) standards of significance; (5) method of analysis; (6) proposed project impacts and; (7) mitigation measures, as applicable.

As described in Chapter 2, Project Description, following adoption of the MOU in 2008, the Tribe completed the physical improvements necessary to receive water service consistent with its provisions and those improvements have been in continuous operation since being placed into service that year. Consistent with the Writ and as described in subsection 2.1; however, the environmental analyses assess the project's environmental impacts as if these water service improvements are not yet constructed. Therefore, the environmental setting describes the existing condition at the time the MOU was adopted (May 2008).

Each impact discussion includes an impact statement (in bold text), an explanation of the impact (as it relates to the proposed project), an analysis of the significance of the impact, identification of relevant mitigation measures (in italic text), if appropriate, and an evaluation of whether the identified mitigation measures would reduce the magnitude of identified impacts, if necessary. Each impact statement is assigned a number based on the section and the order they appear (for example, 3.2-1, 3.2-2, etc). Cumulative impacts for each technical issue area are discussed in Chapter 5, Other CEQA Considerations.

## 3.2 Water Supply

### 3.2.1 Introduction

As discussed in the Initial Study Checklist (Appendix A), the analysis of utilities and service systems is focused on an evaluation of the potential effects of the proposed project on overall water supply and water supply availability in the EID service area, as the Writ directs. The evaluation is project-specific because it isolates the project-generated water demands, but as directed by the Writ, it analyzes the impact of those demands on EID's ability to serve both existing and future customers throughout its entire service area.

This section also includes a discussion of the EID service area and existing operations, existing water supply sources, and existing demand. Relevant regulatory setting is also provided. The analysis presents the criteria used for determining the significance of the projected water usage rates, and an evaluation of potential impacts associated with proposed project implementation. A WSA was prepared to analyze EID's ability to provide water service to the Rancheria consistent with the MOU between EID and the Rancheria and in response to the Writ. Information included in the WSA is incorporated into this section and the complete WSA is included as Appendix C. No comments were received in response to the NOP related to water supply.

### 3.2.2 Setting

The following discussion provides a review of water supply resources and infrastructure in the EID service area. Additional background information can be found in Initial Study Checklist Item 9. Hydrology and Water Quality and in Item 17. Utilities and Service Systems. See Appendix A.

#### El Dorado Irrigation District

EID was formed in October, 1925, to provide irrigation water to farmers in the area and domestic water to the City of Placerville. EID presently provides water service for agricultural uses, and for approximately 112,000 residents within its nearly 215 square-mile service area. EID's service area stretches from Pollock Pines and Jenkinson Lake to the east to the El Dorado/Sacramento County border on the west, and includes service within the cities and communities of Placerville, Shingle Springs, Cameron Park, El Dorado Hills, Diamond Springs, and Camino. EID provides municipal water for potable use, irrigation, commercial, and other uses, and also provides recycled water for irrigation and other approved uses within a portion of its service area.

As described in greater detail in Chapter 2, Project Description, water conveyance through EID's distribution system includes a combination of pipelines, regulating reservoirs, tanks, and a limited number of gold rush era ditches. EID's ditch system delivers raw water to agricultural users, and to a water treatment facility, and includes 26.5 miles of ditches, 15 percent of which is piped. Other facilities include over 1,200 miles of pipeline, 5 water treatment plants, 36 storage reservoirs, 37 pumping stations, and a wastewater treatment system that includes 64 lift stations, 560 miles



of pipeline and force mains, and 4 treatment facilities. Major EID water storage facilities include 41,033 AF in Jenkinson Lake, 1,125 AF in Weber Reservoir, and a total of approximately 37,500 AF in Project 184 storage<sup>1,2</sup> (Lake Aloha and Caples, Silver, and Echo lakes). For a discussion of EID water sources and demand, please refer to relevant subsections below.

## Climate

Climate within EID’s service area includes typically dry summers, with rain and some snow in the late fall, winter, and early spring months. The region does not typically experience extreme winter or summer conditions. **Table 3.2-1** provides a summary of precipitation, evapotranspiration (ETo), and temperature, as relevant to EID’s service area and associated water supply availability.

**TABLE 3.2-1  
CLIMATE INFORMATION FOR EID’S SERVICE AREA**

Month	Average Max. Temperature (°F)	Average Min. Temperature (°F)	Average Total Precipitation (in.)	Average Total Snowfall (in.)	Average Snow Depth (in.)	Standard Average ETo (in.)
Jan	53.4	32.6	6.92	1.2	0	1.41
Feb	56.9	35.0	6.65	0.3	0	1.88
Mar	60.5	37.6	5.76	0.4	0	2.99
Apr	66.3	40.5	3.19	0.3	0	4.47
May	74.8	46.3	1.51	0	0	5.91
Jun	83.9	51.9	0.44	0	0	7.46
Jul	92.7	57.2	0.07	0	0	9.00
Aug	91.4	56.2	0.09	0	0	8.21
Sep	85.7	52.1	0.54	0	0	6.23
Oct	74.8	45.0	2.13	0	0	4.19
Nov	61.3	37.4	4.40	0	0	1.84
Dec	53.8	33.1	6.47	0.4	0	1.37
Annual	<b>71.3</b>	<b>43.8</b>	<b>38.17</b>	<b>2.6</b>	<b>0</b>	<b>54.96</b>

SOURCE: Kennedy Jenks, 2011.<sup>3</sup>

## Water Supply Sources

EID’s service area includes much of the western-central portion of El Dorado County, with its western service boundary including the Sacramento County/El Dorado County line, and water service provided in areas from El Dorado Hills through Placerville, and east as far as Jenkinson Lake, near Pollock Pines. EID is divided into two major water supply regions: Eastern/Western (higher elevations) and El Dorado Hills (lower elevations). Water supply sources are primarily located in the higher elevations of the service area, however, Folsom Lake is the primary supply to the El Dorado Hills supply region. For cost savings, and when demand in the El Dorado Hills

<sup>1</sup> EID, 2011. El Dorado Irrigation District Urban Water Management Plan, 2010 Update. July, 2011. Available at: [http://www.eid.org/doc\\_lib/02\\_dist\\_info/UWMP\\_2010update.pdf](http://www.eid.org/doc_lib/02_dist_info/UWMP_2010update.pdf) Accessed on September 13, 2011.

<sup>2</sup> Ibid

<sup>3</sup> Kennedy Jenks, 2011. El Dorado Irrigation District Water Supply Assessment for the Shingle Springs Rancheria. September 12, 2011.

supply region exceeds the infrastructure-constrained Folsom Lake supply, water from the upper supply sources is conveyed to this region. EID does not presently have the ability to pump water from Folsom Lake up to the Western/Eastern supply region.

EID relies solely on surface water to meet water demands within its service area. EID does not pump groundwater. EID's water system includes a primary system, which provides water service to more than 98 percent of its customers, plus two additional satellite systems. The main system is fed by three primary diversion points: (1) EID-owned and operated Sly Park Dam and Jenkinson Lake; (2) EID's Hydroelectric FERC Project 184 at Forebay Reservoir; and (3) Folsom Reservoir via a USBR Water Service Contract, a Warren Contract for rediverted EID ditch and Weber Reservoir water supplies, and one state water right permit (no. 21112). EID maintains two satellite diversions, providing service to Outingdale via a diversion from the Middle Fork of the Cosumnes River and to the community of Strawberry via a diversion on the upper South Fork of the American River.<sup>4</sup> EID also diverts water into the Crawford Ditch from the North Fork of the Cosumnes River for non-potable irrigation uses.<sup>5</sup> EID has approximately 2,750 AFY of recycled water supply available from the communities of El Dorado Hills and Cameron Park.<sup>6</sup>

In addition to EID's surface water withdrawals of pre-1914 water rights along Camp Creek, the South Fork of the American River, the North Fork of the Cosumnes River, Clear Creek, and Squaw Hollow Creek, EID maintains post-1914 appropriative water rights, as well as contract entitlements from the USBR, at Folsom Reservoir, Jenkinson Reservoir, Middle Fork Cosumnes River, and South Fork of the American River. At present, EID does not purchase water from any wholesale supplier, excepting the Water Service Contract with the USBR, as shown in **Table 3.2-2**. However, EID expects to purchase a portion of its future water supply as wholesale water from the El Dorado County Water Agency, which is currently pursuing a Water Service Contract with USBR under Public Law 101-514.<sup>7</sup>

Several factors influence water supply availability to EID. These include hydrology, infrastructure constraints (affecting only El Dorado Hills deliveries), use history, and seasonal diversion and storage policies. EID establishes its firm yield for water supply availability through computer modeling, using the OASIS Model, a computer software package developed by a private entity to model hydrologic conditions in conjunction with certain input parameters. The OASIS Model determines the firm yield of the integrated system for EID, based on the sources shown in Table 3.2-2, as restricted by contractual commitments and supply. During a dry or critically dry year, the annual supply would be reduced, and would include a 25% cutback to 5,660 AFY for USBR EID Contract 14-06-200-1375A and a reduced supply for USBR EID Contract 06-WC-20-3315 to 3,000 AFY.

<sup>4</sup> EID, 2011. El Dorado Irrigation District Urban Water Management Plan, 2010 Update. July, 2011. Available at: [http://www.eid.org/doc\\_lib/02\\_dist\\_info/UWMP\\_2010update.pdf](http://www.eid.org/doc_lib/02_dist_info/UWMP_2010update.pdf) Accessed on September 13, 2011.

<sup>5</sup> Ibid

<sup>6</sup> Kennedy Jenks, 2011. El Dorado Irrigation District Water Supply Assessment for the Shingle Springs Rancheria. September 12, 2011.

<sup>7</sup> EID, 2011. El Dorado Irrigation District Urban Water Management Plan, 2010 Update. July, 2011. Available at: [http://www.eid.org/doc\\_lib/02\\_dist\\_info/UWMP\\_2010update.pdf](http://www.eid.org/doc_lib/02_dist_info/UWMP_2010update.pdf) Accessed on September 13, 2011.

El Dorado Irrigation District Memorandum of Understanding

TABLE 3.2-2  
EID WATER SUPPLY SOURCES

Source No.	Water Source	Water Supply Area	Facility Name or Location	Contract / Agreement or Appropriator	Water Right Application Number	Water Right Permit Number	Water Right License Number	Entitlement (AFY)	
								Annual Supply (Maximum)	Firm Yield <sup>(1)</sup>
1	Folsom Lake	El Dorado Hills Cameron Park	EDH Raw Water PS	USBR EID Contract 14-06-200-1375A	13370 13371	11315 11316	USBR	7,550	5,660
1	Folsom Lake	El Dorado Hills Cameron Park	Weber Dam EDH Raw Water PS	USBR EID Contract 06-WC-20-3315	Pre-1914 1692	1053	2184	4,560	3,000
2	Jenkinson Reservoir	Contiguous District	Jenkinson Lake Sly Park Dam	EID	5645A 2270	12258 2631	11835 11836	33,400	20,920
2	Camp Creek	Contiguous District	Jenkinson Lake	EID	Pre-1914	N/A	N/A	Included above	Included in 20,920 above
3	South Fork American River at Kyburz and Project 184 Reservoirs	Contiguous District	El Dorado Forebay Diversion to EID Main Ditch	EID	Pre-1914	N/A	N/A	15,080	15,080
4	North Fork Consumes River	Somerset	North Fork Crawford Ditch Camp Creek Segment	EID	Pre-1914	NT/A	N/A	5,000	N/A
4	Clear Creek	Somerset	Crawford Ditch Clear Creek Segment	EID	Pre-1914	N/A	N/A	5,000	N/A
4	Squaw Hollow Creek	Diamond Springs	East Diamond Ditch	EID	Pre-1914	N/A	N/A	N/A	N/A
5	Middle Fork Cosumnes River	Outingdale	Outingdale Subdivision	EID	7478	4071	N/A	104	N/A
6	South Fork American River	Strawberry	Strawberry Subdivision	EID	Pre-1914	N/A	N/A	50	Included in 15,080 above
7	Recycled Water	El Dorado Hills Cameron Park	El Dorado Hills and Deer Creek Reclamation Plants	EID	N/A	N/A	N/A	Plant ADWF	Plant ADWF
8	Folsom Lake	Contiguous District	Project 184	EID	5645B	21112	N/A	17,000	17,000
13	Bass Lake	El Dorado Hills Cameron Park	Bass Lake	EID	Pre-1914	N/A	N/A	60	60

SOURCE: Kennedy Jenks, 2011<sup>8</sup>.

<sup>8</sup> Kennedy Jenks, 2011. El Dorado Irrigation District Water Supply Assessment for the Shingle Springs Rancheria. September 12, 2011.

**Table 3.2-3** presents a summary of historic (2010) and projected future (2015-2030) water supplies and sources during a normal water year. As shown therein, water supplies in addition to those available in 2010 are anticipated for 2015 (7,500 AFY) and 2020 (30,000 AFY), based on an anticipated water purchase from EDCWA and an agreement with the Sacramento Municipal Utilities District (SMUD). The EDCWA supply is anticipated based on Public Law 101-514, which legislatively mandated the execution of a Water Supply Contract between the USBR and EDCWA. The contract stipulates availability of 15,000 AFY of water from Folsom Reservoir, and EID expects to receive at least 7,500 AFY of this total via sub-contract with EDCWA. This allocation would be subject to USBR's Shortage Policy for Municipal and Industrial Contractors, which stipulates maximum dry year reductions of 25 percent.

Water available via an agreement with SMUD allows for 30,000 AF of annual storage capacity in SMUD reservoirs under normal year conditions through 2025, and 40,000 AF thereafter. An additional 15,000 AF is available for carryover purposes. After a first dry year in which annual storage supplies would be exhausted, EID projects using 5,000 AF of the 15,000 AF total of carryover supplies in each subsequent year of a multiple dry year sequence.

**TABLE 3.2-3  
HISTORIC AND PROJECTED NORMAL YEAR WATER SUPPLY FOR EID (AFY)**

Water Supply Sources		2010	2015	2020	2025	2030
Water Purchased from USBR	Folsom Reservoir	7,550	7,550	7,550	7,550	7,550
Supplier-Produced Surface Water	Jenkinson Lake	23,000	23,000	23,000	23,000	23,000
Supplier-Produced Surface Water	El Dorado Forebay	15,080	15,080	15,080	15,080	15,080
Water Purchased from EDCWA	Folsom Reservoir - PL 101-514 (Fazio)	0	7,500	7,500	7,500	7,500
Supplier-Produced Surface Water	Folsom Reservoir - Warren Act Contract	4,560	4,560	4,560	4,560	4,560
Supplier-Produced Surface Water	Project 184 - Permit 21112	17,000	17,000	17,000	17,000	17,000
Supplier-Produced Surface Water	SMUD-El Dorado Agreement	0	0	30,000	30,000	40,000
Recycled Water	El Dorado Hills and Deer Creek WWTPs	3,084	4,356	5,878	7,730	7,730
Supplier-Produced Groundwater	None	0	0	0	0	0
Transfers in	None	0	0	0	0	0
Exchanges In	None	0	0	0	0	0
Desalinated Water	None	0	0	0	0	0
<b>Total Supply</b>		<b>70,274</b>	<b>79,046</b>	<b>110,568</b>	<b>112,420</b>	<b>122,420</b>

SOURCE: Kennedy/Jenks, 2011<sup>9</sup>

<sup>9</sup> Kennedy Jenks, 2011. El Dorado Irrigation District Water Supply Assessment for the Shingle Springs Rancheria. September 12, 2011.

## Water Demand

According to EID's 2010 UWMP<sup>10</sup>, EID is expected to serve a population of 142,560 by 2030. Historic and future water demand projections are shown in Table 2-1 in Chapter 2, Project Description. Historic demand figures are based on historic records, as published in EID's annual consumption report. Demand projections through 2030 are taken from the 2010 UWMP<sup>11</sup>, and are based on projected demands from EID's draft Integrated Water Resources Management Plan (IWRMP). Annual water demand projections contained in the IWRMP were distributed among the user classes shown in **Table 3.2-4**, in the same proportions as shown for 2010.

In accordance with California Water Code §10631, projections are shown in 5-year intervals, extending 22 years past 2008 when the proposed project was initiated and water demand occurred. Water use for the Project is conservatively assumed to not be included in the demand projections in the 2010 UWMP.<sup>12</sup> Instead, Project water demand is added as a separate line item within the WSA, as shown for the impact assessment, below (see Table 3.2-5).

**TABLE 3.2-4  
HISTORIC AND PROJECTED WATER DEMAND FOR EID SERVICE AREA (AFY)**

Water Use Sector	2010	2015	2020	2025	2030
Single Family	14,895	21,725	23,410	29,679	34,505
Multi-Family	1,430	2,086	2,248	2,849	3,313
Commercial/Industrial	2,479	3,616	3,896	4,939	5,743
Landscape	1,073	1,565	1,686	2,138	2,486
Agriculture and Ditches	5,431	7,921	8,536	10,821	12,581
Other Authorized Uses	2,453	5,917	6,049	2,323	2,701
<b>Total Service Area Demand</b>	<b>27,761</b>	<b>42,829</b>	<b>45,825</b>	<b>52,750</b>	<b>61,328</b>

SOURCE: Kennedy/Jenks, 2011<sup>13</sup>; EID, 2011<sup>14</sup>.

## 2011 Meter Availability

A Water Resources and Service Reliability Report is prepared by EID annually to determine current water supply and water meter availability within the District. Board Policy 5010, Water Supply Management, states that the District will not issue any new water meters if there is insufficient water supply. Administrative Regulation 5010, Water Availability and Commitments, outlines the responsibilities for annual reporting, shortages, and new meter restrictions. This policy and regulation provide the means to ensure that meter sales do not exceed water supply and infrastructure capacity. To determine the amount of water that will be available in the coming

<sup>10</sup> EID, 2011. El Dorado Irrigation District Urban Water Management Plan, 2010 Update. July, 2011. Available at: [http://www.eid.org/doc\\_lib/02\\_dist\\_info/UWMP\\_2010update.pdf](http://www.eid.org/doc_lib/02_dist_info/UWMP_2010update.pdf) Accessed on September 13, 2011.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

<sup>13</sup> Kennedy Jenks, 2011. El Dorado Irrigation District Water Supply Assessment for the Shingle Springs Rancheria. September 12, 2011.

<sup>14</sup> EID, 2011. El Dorado Irrigation District Urban Water Management Plan, 2010 Update. July, 2011. Available at: [http://www.eid.org/doc\\_lib/02\\_dist\\_info/UWMP\\_2010update.pdf](http://www.eid.org/doc_lib/02_dist_info/UWMP_2010update.pdf) Accessed on September 13, 2011.

year for new meter sales, the District uses the firm yield of the water supply sources minus the total demand for all uses of this water. The District's overall system firm yield is approximately 63,500 acre-feet from two water supply areas. The supply areas are divided into the El Dorado Hills supply area and the Western/Eastern supply area. The project site is located within the Western/Eastern supply area. **Table 3.2-5** shows the 2011 water meter availability for each water supply region.

**TABLE 3.2-5  
2011 WATER METER AVAILABILITY**

EL DORADO HILLS SUPPLY AREA	WESTERN/EASTERN SUPPLY AREA
Water Supply = 15,163 AF	Water Supply = 36,000 AF
Total Potential Demand = 11,029 A	Total Potential Demand = 34,762 AF
Unallocated Water Supply = 4,134 A	Unallocated Water Supply = 1,238 AF
Water Meter Availability = 5,369 EDU	Water Meter Availability = 2,300 EDU

SOURCE: EID, 2011a.<sup>15</sup>

## Climate Change and Water Supply

Global climate change is anticipated to affect water resources in California, including within EID's service area, via changes in precipitation amount, precipitation type (rain versus snow), snowmelt duration, as well as more extreme weather patterns. Future climate projections are typified by high uncertainty, especially at the local level. The following discussion provides an overview of potential climate related changes that could affect water supply within EID's service area.

A handful of studies indicate that total precipitation in northern California may increase as a result of climate change. For instance, a recent analysis by the United States National Weather Service (USNWS), using data from 1931 through 2005, indicates a long-term trend of increasing annual precipitation in California, especially in northern California, where data show an increase of up to 1.5 inches per decade.<sup>16</sup> A second investigation completed by the Department of Water Resources (DWR) indicates a statistically significant trend towards increased total precipitation in northern and central California since the late 1960s.<sup>17</sup> An investigation of rainfall during November through March of 1930 through 1997 indicates significant increases in California rainfall (distinct from snowfall).<sup>18</sup> An investigation by Bardini et al.<sup>19</sup> indicates potentially decreasing annual precipitation in California. However, this result is likely an artifact of the specific subset of data that the Bardini study relied upon, with extremes at the beginning or end of the time series data substantially affecting the identified trend.<sup>20</sup>

<sup>15</sup> EID, 2011. Water Resources and Service Reliability Report July, 2011.

<sup>16</sup> US National Weather Service (USNWS), 2008. US Temperature and Precipitation Trends. National Weather Service Climate Prediction Center. Available at: <http://www.cpc.ncep.noaa.gov/trndtext.shtml>

<sup>17</sup> California Department of Water Resources (DWR). 2006. *Progress on Incorporating Climate Change into Management of California's Water Resources*. Technical Memorandum Report, July 2006.

<sup>18</sup> Mote. 2005. Declining Snowpack in Western North America. Bulletin of the American Meteorological Society 86(1): 39-49.

<sup>19</sup> Bardini, G., Guillen, S., Pierotti, B, Rooks, H., and Sou, S. 2001. *Climate Change in California: Potential Consequences and Strategies to Cope and Adapt*. California Department of Water Resources Report. 91 pp.

<sup>20</sup> California Department of Water Resources (DWR). 2006. *Progress on Incorporating Climate Change into Management of California's Water Resources*. Technical Memorandum Report, July 2006.

There is also evidence that the amount of precipitation that occurs on an annual basis is becoming more variable. That is, periods of both high and low rainfall are becoming more common. Specifically, a study performed by DWR<sup>21</sup> indicates that present-day variability in annual precipitation is about 75 percent greater than that of the early 20<sup>th</sup> century.

Changes in the incidence and variability of precipitation are complicated by the form in which precipitation is anticipated to occur – that is, as rain versus snow – and by the rate of spring snowmelt. At present, California’s snow pack acts as a short-term storage reservoir: during the winter months, a substantial portion of California’s precipitation falls as snow, which collects and is stored in the Sierra snow pack. In spring, this stored snow slowly melts, releasing water to rivers and slowly filling reservoirs, and providing an extended window during which municipal, agricultural, and other users can draw from California’s rivers for water supply.

When the effects of climate change are included, the situation is somewhat different, and California would receive less winter snowfall and more winter rainfall. Under this scenario, winter stream flows would be higher, while spring stream flows, which are fed primarily by snowmelt, would be lower. As a result, water available for filling reservoirs during the spring would be reduced, while winter reservoir management could require additional precautions to account for increased flood risk, including more aggressive allocation of reservoir capacity for flood control purposes. Additionally, agricultural withdrawals, and municipal withdrawals could have a reduced spring baseflow from which to draw, as a result of reduced spring snowmelt.

### 3.2.3 Regulatory Framework

The following discussion of the regulatory framework reviews only those laws, acts, regulations, policies, and other regulatory items that specifically apply to this project, along with a brief description of pertinent regulatory agencies.

#### State

##### ***Senate Bill (SB) 610***

Compliance with CEQA, and specifically with California Public Resources Code (PRC) § 21151.9, requires that certain proposed projects prepare a WSA to analyze whether long term water supplies are sufficient to meet the project’s demands in normal, single dry and multiple dry years for a period of 20 years. Preparation of a WSA is required if a project meets the statutory definition of a “project” set forth in Water Code § 10912(a), which means that it includes at least one of the following:

- A proposed residential development of more than 500 dwelling units
- A proposed shopping center or business establishment employing more than 1,000 persons or having more than 500,000 square feet of floor space

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<sup>21</sup> Ibid

- A proposed commercial office building employing more than 1,000 persons or having more than 250,000 square feet of floor space
- A proposed industrial, manufacturing, or processing plant, or industrial park planned to house more than 1,000 persons, occupying more than 40 acres of land, or having more than 650,000 square feet of floor area
- A mixed use project that includes one or more of the projects specified in the above bullets.

Because the proposed project could serve commercial uses on the Rancheria that exceed a total of 500,000 square feet, EID has prepared a WSA as part of this CEQA process. Completion of a WSA requires collection of proposed water supply data and information relevant to the project in question, an evaluation of existing/current use, a projection of anticipated demand sufficient to serve the project for a period of at least 20 years, delineation of proposed water supply sources, and an evaluation of water supply sufficiency under single-year and multiple-year drought conditions. A WSA was prepared for the proposed project and is included in Appendix C. Note that SB 221, which requires additional verification of anticipated water supplies to be completed at the tentative subdivision map stage, is not required because the proposed project would not include a “subdivision” as defined by SB 221.

## Local

### *El Dorado Irrigation District*

EID’s 2010 UWMP<sup>22</sup> describes EID’s water sources, supplies, demands, and facilities for water diversion, conveyance, treatment, and distribution. The UWMP further discloses current and historic water demand and supply, and provides an estimate of future anticipated water demand and supply, based on available growth projections and current and future water supply sources and contracted agreements, which EID maintains with state and federal agencies. The UWMP’s demand projections consider an array of demand influencing factors, including local climate, physical facilities, and historic and projected trends in population, employment, and housing. The UWMP’s historic water use data, combined with future supply and demand projections from the UWMP, serve as a basis for a separate WSA that was completed in support of the proposed project.<sup>23</sup>

The UWMP also discusses EID’s water conservation planning and management, and delineates a water conservation strategy that is being implemented by EID in order to support water conservation. Conservation measures are delineated pursuant to EID Board Policy 5030, Water Conservation, which requires reasonable and prudent measures to conserve all water and to adopt and implement water-use efficiency programs that will benefit EID’s customers. Measures that EID may take to support conservation within its service area include:

- Staffing and maintaining the position of trained conservation coordinator and providing that function with the necessary resources to implement the BMPs;

<sup>22</sup> EID, 2011. El Dorado Irrigation District Urban Water Management Plan, 2010 Update. July, 2011.

<sup>23</sup> Kennedy Jenks, 2011. El Dorado Irrigation District Water Supply Assessment for the Shingle Springs Rancheria. September 12, 2011.



- Adopting and enforcing a regulation (Administrative Regulation 1041) that prohibits water waste;
- Supporting legislation or policies that prohibit water waste;
- Enacting a drought policy to facilitate implementation of water shortage response measures;
- Implementing school education and public outreach materials and programs;
- Implementing a residential water audit program;
- Implementing a rebate program for installing ultra low flow toilets since this program was initiated in 1995, and high efficiency toilets since 2009;
- Implementing a rebate program for installing high efficiency clothes washers;
- Implementing an Irrigation Management Service, which is the longest operating IMS program in California, providing irrigation scheduling for commercial agriculture customers who have saved an estimated 2,000 AFY.

Through July 2011, implementation of EID's water conservation program has resulted in an annual water savings of approximately 4,000 AF. Additional conservation goals and measures are anticipated to be implemented on an ongoing basis as part of EID's water conservation strategy.<sup>24</sup>

EID's Drought Preparedness Plan<sup>25</sup> presents actions and procedures for preparing for, identifying, and responding to a drought. The objective of the Plan is to help EID preserve essential public services and to minimize the effects of a water shortage on public health and safety, economic activity, environmental resources, and individual lifestyle. Contained within the Drought Preparedness Plan is the Drought Action Plan. The Drought Action Plan sets voluntary and mandatory water use reduction targets within EID's service area, including a tiered response based on drought severity that includes increased rates and other sanctions for non-compliance. Demand reduction targets of 15 percent (Stage 1, voluntary), 30 percent (Stage 2, mandatory), and 50 percent (Stage 3, mandatory) are set based on reduced allotments and strict penalty rates.<sup>26</sup> Voluntary and mandatory actions apply to all EID customers, including the Tribe. The Drought Action Plan, including drought stage water supply conditions, objectives, and response actions including water use reduction targets, is summarized in **Table 3.2-6**. All of the requirements in the Drought Preparedness Plan and the Drought Action Plan apply to the Rancheria. Therefore, in the event of a drought, the Rancheria would be required to take the same measures to mitigate the effects of the drought on water supply as all other users. In that regard, the proposed project does not affect EID's drought response or ability to respond to a drought, nor does it disproportionately affect any existing water users.

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<sup>24</sup> EID, 2011. El Dorado Irrigation District Urban Water Management Plan, 2010 Update. July, 2011.

<sup>25</sup> El Dorado Irrigation District, 2008. *Drought Preparedness Plan*, January 2008.

<sup>26</sup> Ibid.

**TABLE 3.2-6  
DROUGHT ACTION PLAN SUMMARY**

<b>Water Supply Conditions</b>	<b>Drought Stage</b>	<b>Objective</b>	<b>Response Actions</b>
Normal 0% Total Supply Reduction	Drought Stage Zero – Ongoing Conservation. Water waste prohibition in effect.	Public awareness	Normal actions
Slightly Restricted Water Supplies (below normal) Up to 15% Total Supply Reduction	Drought Stage 1 – Introductory Stage. Voluntary reductions in use	Initiate public awareness of predicted water shortage and encourage conservation	Encourage voluntary measures to decrease "normal" demand up to 15%
Moderately Restricted Water Supplies Up to 30% Total Supply Reduction	Drought Stage 2 – Voluntary Phase for water use reductions and potential subsequent Mandatory Phase with restrictions on use.	Increase public understanding of worsening water supply conditions, encourage voluntary conservation measures, and enforce some mandatory conservation measures	Encourage some voluntary measures and enforce mandatory measures and implement water rationing to decrease "normal" demand up to 30%  Drought surcharge enacted (potential in-house trigger and board action)
Severely Restricted Water Supplies Up to 50% Total Supply Reduction	Drought Stage 3 – Mandatory restrictions (severe prohibitions) on use	Ensure that water use is limited to health and safety purposes	Enforce extensive restrictions on water use and implement water rationing to decrease demand up to 50% of "normal" demand

### ***El Dorado County Water Agency***

The EDCWA is a public agency that provides coordination and support for long term water resources and water supply planning within El Dorado County. The agency was established in 1959, under the El Dorado County Water Agency Act (Water Code Appendix, Chapter 96).<sup>27</sup> The EDCWA leads, assists, and participates in various ongoing and anticipated water rights projects, including maintaining and securing additional water rights for El Dorado County. The agency also promotes water conservation within the County through various programs. The agency's staff also operates the El Dorado Water and Power Authority (EDWPA), which is a joint powers authority comprised of EDCWA, El Dorado County, and EID. In late 2005, SMUD and EDWPA reached settlement on all issues related to the Upper American River relicensing project which allows for 30,000 AF of annual water storage in SMUD reservoirs under normal year conditions through 2025 and 40,000 AF thereafter; with an additional 15,000 AF available for carryover purposes. The EDCWA is also negotiating with USBR and completing environmental compliance to obtain a Water Supply Contract in accordance with Public Law 101-514, as shown in Table 3.2-3. EID expects to purchase water from EDCWA based on this additional water supply in the future. These two supply sources are shown in Table 3.2-3.

### ***EDCWA Water Resources Development and Management Plan***

Pursuant to the 2004 El Dorado County General Plan and prior planning efforts, the EDCWA directed that a Water Resources Development and Management Plan (Plan) be prepared for the County.

<sup>27</sup> El Dorado County, 2011. Chapter 96, El Dorado County Water Agency Act. Available at: [http://www.co.el-dorado.ca.us/water/water\\_pdf/Chapter\\_96.pdf](http://www.co.el-dorado.ca.us/water/water_pdf/Chapter_96.pdf) Accessed on May 15, 2011.

Following resolution of legal challenges to the County General Plan, as well as various other delays, the Plan was released in 2007. It is designed to coordinate water resource planning activities within El Dorado County, and to identify actions and water resource alternatives to meet the water needs in El Dorado County. The plan: (1) addresses the water supply needs of the entire county including its five water purveyors and those areas presently un-served by a purveyor; and (2) identifies potential technical, environmental, and institutional constraints for each water resource alternative.

For each purveyor's service area and for the currently un-served areas, the plan estimates water demand projections, identifies water supply shortages, evaluates water supply sources and infrastructure options, and recommends actions and infrastructure improvements. Projected needs and improvements are estimated to the year 2025, and a range of possible needs and improvements are estimated to accommodate build-out of the current County General Plan.

The primary goals of the Plan are to:

- Coordinate various water resource planning efforts within El Dorado County
- Provide technical water supply gap analysis for the Cosumnes, American, Bear, and Yuba, Integrated Regional Water Management Plan (CABY IRWMP)
- Be consistent with 2004 General Plan land use
- Document the projected water needs of the county through 2025 and beyond
- Identify actions and water resource alternatives to meet water needs of El Dorado County
- Identify potential technical, environmental, and institutional constraints for each water resource alternative
- Develop water resource alternatives that have general local support
- Develop a phasing and implementation plan to the year 2025 and beyond

The plan also seeks to address water supply and water supply reliability issues associated with climate change, and the potential effects of climate change on water supply in northern California/El Dorado County, during the ensuing decades.

### ***El Dorado County Land Use Planning***

EID does not have the authority to make land use decisions within the County; instead the County and incorporated cities within the County have authority over land use decisions within their respective jurisdictions. These decisions are made consistent with the El Dorado County General Plan and individual City General Plans. Because the Shingle Springs Rancheria is held in trust for the Shingle Springs Band of Miwok Indians by the federal government, the Tribe has sovereign land use authority on the Shingle Springs Rancheria, governed by the Tribe and a Tribal Land Use Plan. El Dorado County's General Plan land use maps designate the Rancheria as AP – Adopted Plan. According to General Plan Policy 2.2.1.2, this designation recognizes areas for which specific land use plans have been prepared and adopted. These plans are accepted and incorporated in the County General Plan, and the land use map associated with such a plan constitutes the General Plan map for each such area. The Tribe has identified the proposed project as being consistent with the Tribal Land Use Plan. Thus, development on the Rancheria pursuant

to the Tribe's sovereign land use authority is consistent with the El Dorado County General Plan AP designation.

### 3.2.4 Impacts and Mitigation Measures

#### Method of Analysis

The analysis of water supply is based on the WSA that was completed for the proposed project (see Appendix C). The WSA was completed pursuant to Public Resources Code §21151.9, as well as California Water Code § 10631, 10657, 10910, 10911, 10912, and 10915, as applicable (i.e., SB 610). The WSA and the impact assessment provided below evaluate water supplies that are currently or would be available during normal, single dry, and multiple dry water years for 20 years in the future. These supplies are evaluated based on their sufficiency to meet existing demands, expected demands of the Project, and reasonably foreseeable planned future water demands to be served by EID. This methodology isolates project-specific demands and shows the magnitude of difference created by adding those demands to EID's service-area wide balance of demands and supplies.

#### Standards of Significance

Based on Appendix G of the CEQA Guidelines, an impact on water supply is considered significant if implementation of the proposed project:

- Requires new or expanded water supply resources or entitlements

#### Impacts and Mitigation Measures

##### Impacts Analyzed in the Initial Study

The proposed project includes the installation and operation of a new three-inch flow meter located on the Rancheria adjacent to Honpie Road. The meter would allow maximum continuous flow of 95 gpm and maximum average daily delivery of 135,000 gpd. Water would flow through a new, approximately 4,025-foot 12-inch pipeline to be installed by the Tribe on the Rancheria along Honpie Road. No new infrastructure would be constructed off the Rancheria in the EID service area and existing EID operations would remain unchanged. Impacts associated with the installation and operation of the water supply delivery infrastructure that is included as part of this project is included in the Initial Study Checklist (see Appendix A). These impacts are considered less than significant and thus, no further analysis is required. Therefore, these impacts were not carried forward to this EIR.

**Proposed Project**

**Impact 3.2.1: New or expanded water supply or entitlements could be needed to meet existing and future water demand during normal and dry years on the Rancheria and in the EID service area outside of the Rancheria. (Less than Significant)**

The proposed project involves providing water service to the Rancheria consistent with the MOU. As described in Chapter 2, Project Description, the MOU states that EID would provide the Rancheria with water service at a maximum rate of 95 gpm and an average volume of 135,000 gpd, equivalent to a maximum of 154 AFY. This would result in a net increase of 215.75 EDU over the existing 45 EDU of service by EID to the Rancheria. This increase in water supply to the Rancheria would not significantly impact EID’s ability to meet service area demand outside of the Rancheria.

**Normal Water Year Conditions**

**Table 3.2-7** presents current and projected EID water demand, proposed project water demand, and total water supply available during normal water years, based on data available from EID’s 2010 UWMP, and as discussed in detail in the WSA (Appendix C). Proposed project demand is conservatively assumed to be the maximum allowable amount (per the MOU) of 154 AFY. As shown in Table 3.2-7, under normal water year conditions EID’s total water supply exceeds EID’s total water demand (including the proposed project) in Years 2015 through 2030 (future supply and demand included in the 2010 UWMP and analyzed in the WSA for the proposed project). As also shown in Table 3.2-7, proposed project demand would represent a total of 0.26 percent to 0.51 percent of the difference between total water supply and demand under normal water year conditions. The EID water supply projections shown in Table 3.2-7 include new water supply sources shown in Tables 3.2-2 and 3.2-3 and described in associated text.

**TABLE 3.2-7  
NORMAL YEAR SUMMARY OF HISTORIC AND PROJECTED EID WATER DEMAND, PROJECT DEMAND, AND EID SUPPLY (AFY)**

Category	2007 <sup>a, b</sup>	2010	2015	2020	2025	2030
EID Water Supply	60,550	70,274	79,046	110,568	112,420	112,420
EID Water Demand	43,967	33,834	49,075	52,421	60,182	69,774
Difference (Supply - Demand)	16,583	36,440	29,971	58,174	52,238	42,646
Maximum Project Demand	154	154	154	154	154	154
Project Demand as a Percent of Difference	N/A	N/A	0.51%	0.26%	0.29%	0.36%

a. Population Data: EID 2008b, 2010a

b. Water Data: EID 2010b; Tables 27 and 28 for the year 2007 as derived from the 2007 Consumption and Diversion Reports

SOURCE: Kennedy Jenks, 2011<sup>28</sup>, and EID (2011c)

<sup>28</sup> Kennedy Jenks, 2011. El Dorado Irrigation District Water Supply Assessment for the Shingle Springs Rancheria. September 12, 2011.

### Single Dry Year Conditions

**Table 3.2-8** summarizes projected single dry year EID water supply and service area demand. As shown in Table 3.2-8, EID’s total water supply would exceed EID’s total water demand (including the proposed project) in Years 2015 through 2030. Proposed project demand would represent a total of 0.30 percent to 0.65 percent of the difference between total water supply and demand under single dry year water conditions.

**TABLE 3.2-8  
SINGLE DRY YEAR SUMMARY OF PROJECTED EID WATER DEMAND,  
PROJECT DEMAND, AND EID SUPPLY (AFY)**

Category	2015	2020	2025	2030
EID Water Supply	72,721	104,243	106,095	116,095
EID Water Demand	49,075	52,421	60,182	69,774
Difference (Supply – Demand)	23,646	51,822	45,913	46,321
Maximum Project Demand	154	154	154	154
Project Demand as a Percent of Difference	0.65%	0.30%	0.34%	0.33%

SOURCE: Kennedy Jenks, 2011<sup>29</sup>.

### Multiple Dry Year Conditions

**Table 3.2-9** summarizes projected multiple dry year EID water supply and service area demand. The analysis conservatively assumes that even in multiple dry years, the proposed project would continue to utilize its full entitlement, and also that the total service area demand would remain at normal-year levels notwithstanding EID’s Drought Preparedness Plan and Drought Action Plan. As shown in Table 3.2-9, in Years 2015 through 2030 EID’s total water supply exceeds EID’s total water demand during multiple dry years. As shown, water supplies available to meet proposed project demand decrease during each consecutive dry year. By dry year 3, EID’s total water supply exceeds EID’s total water demand by 175 AFY (2030) to 17,528 AFY (2020). Proposed project demand would represent a small percentage of the difference between total supply and demand in all years and for each consecutive dry year, except for the third consecutive dry year in Year 2030. However, even during the third consecutive dry year projected in 2030, and assuming no drought- or conservation-based demand reduction by either the proposed project or the service area as a whole, sufficient water supply (175 AFY) would still be available to serve proposed project demand.

<sup>29</sup> Kennedy Jenks, 2011. El Dorado Irrigation District Water Supply Assessment for the Shingle Springs Rancheria. September 12, 2011.

**TABLE 3.2-9  
MULTIPLE DRY YEAR SUMMARY OF PROJECTED EID WATER DEMAND,  
PROJECT DEMAND, AND EID SUPPLY (AFY)**

Category	2015	2020	2025	2030
<b>Dry Year 1</b>				
EID Water Supply	71,449	86,449	86,449	86,449
EID Water Demand	49,075	52,421	60,182	69,774
Difference (Supply - Demand)	25,521	53,697	47,788	38,196
Maximum Project Demand	154	154	154	154
Project Demand as a Percent of Difference	0.60%	0.29%	0.32%	0.40%
<b>Dry Year 2</b>				
EID Water Supply	66,449	76,449	76,449	76,449
EID Water Demand	49,075	52,421	60,182	69,774
Difference (Supply - Demand)	17,374	24,028	16,267	6,675
Maximum Project Demand	154	154	154	154
Project Demand as a Percent of Difference	0.89%	0.64%	0.95%	2.31%
<b>Dry Year 3</b>				
EID Water Supply	64,949	69,949	69,949	69,949
EID Water Demand	49,075	52,421	60,182	69,774
Difference (Supply - Demand)	15,874	17,528	9,767	175
Maximum Project Demand	154	154	154	154
Project Demand as a Percent of Difference	0.97%	0.88%	1.58%	88%

SOURCE: Kennedy Jenks, 2011.<sup>30</sup>

### ***Climate Change Effects on Water Supply***

As discussed previously, there is a high level of uncertainty with respect to the potential effects of climate change on water resources in Northern California, including within EID's service area. However, in general, climate change could result in a net reduction in water supply availability, due to reduced winter snowfall, reduced snowpack, and earlier or reduced spring snowmelt. Additionally, the incidence of extreme weather events, including droughts, could potentially increase. Because EID relies exclusively on surface water supplies, these effects could result in a net reduction in the volume of water that is available to EID on an annual basis. As a result, the chance of occurrence for dry years, including multiple dry years, could increase.

As shown in Table 3.2-9, EID would maintain a substantial surplus of water even during multiple dry years, through 2025. By 2030, however, that surplus is projected to be minimal, based on the figures and projections contained in the 2010 UWMP.<sup>31</sup> However, as discussed in Section 5 of the WSA (see Appendix C), Sections 4 and 5 of the 2010 UWMP,<sup>32</sup> and immediately above, the multiple dry year supply and demand projections shown in Table 3.2-9 represent a conservative

<sup>30</sup> Kennedy Jenks, 2011. El Dorado Irrigation District Water Supply Assessment for the Shingle Springs Rancheria. September 12, 2011.

<sup>31</sup> EID, 2011. El Dorado Irrigation District Urban Water Management Plan, 2010 Update. July, 2011.

<sup>32</sup> Kennedy Jenks, 2011. El Dorado Irrigation District Water Supply Assessment for the Shingle Springs Rancheria. September 12, 2011.

analytical approach, in that they do not consider implementation of any additional water conservation efforts beyond those presently implemented, nor do they consider the mandatory rationing that would occur under EID's Drought Preparedness Plan and Drought Action Plan.

As discussed previously, demand reduction measures would result in a net reduction in demand of approximately 15 percent to 50 percent pursuant to the Drought Preparedness Plan and Drought Action Plan. As the severity of drought increases, so does the degree to which demand reduction measures would be enforced. Additional conservation efforts (described above under the Regulatory Framework subsection for EID), would also be implemented pursuant to EID Board Policy 5030. These conservation efforts are expected to result in additional water conservation that would occur on an ongoing basis, in addition to drought-related demand reduction measures. Therefore, in the event that climate change results in a net reduction in water supply availability, EID anticipates that additional water conservation measures, combined with dry year/drought-related demand reduction measures, would be ample to alleviate potential reductions in supply. The WSA demonstrates that sufficient water supply would be available to serve the proposed project as well as its existing customers, even considering the potential yet uncertain effects of climate change on water supply.

### **Conclusion**

As previously discussed, this analysis was based on the WSA developed for the proposed project (see Appendix C). The WSA represents a cumulative analysis because it assesses whether or not EID's overall supply can meet future demand, including the proposed project. As shown in Tables 3.2-5 through 3.2-7, during normal, single dry year and multiple dry year conditions, sufficient water supply would be available to meet proposed project water demand without affecting EID's ability to serve its service area outside of the Rancheria or requiring EID to develop additional supplies or entitlements not already anticipated and in progress to meet future water demand through at least 2030. As further discussed in the WSA and discussed above, the District has the capability to respond to both near-term and long-term changing water supply conditions, implementation of multiple-stage demand reduction plans. Although implementation of dry year demand reduction requirements and ongoing water conservation planning would reduce total demands, even if they did not, project supplies are sufficient to meet total demands. Considering the potential effects of climate change on water supply, a combination of ongoing water conservation planning and dry year demand reduction requirements are expected to be sufficient to maintain supply even during multiple year drought conditions. As a result, this is considered a less-than-significant impact.

**Mitigation:** None required.

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## CHAPTER 4

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### Alternatives

#### 4.1 Introduction

Section 15126.6 of the CEQA Guidelines requires an evaluation of “a range of reasonable alternatives to the project, or the location of the project, which would feasibly attain most of the basic project objectives but would avoid or substantially lessen any of the significant effects, and evaluate the comparative merits of the alternatives.” Furthermore, an EIR must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. The purpose of the alternatives analysis is to determine whether a variation of the proposed project would reduce or eliminate potentially significant project impacts in the basic framework of the project’s objectives. The focus and definition of the alternatives evaluated in this EIR are governed by the “rule of reason” set forth in section 15126.6(f) of the CEQA Guidelines requiring evaluation of only those alternatives “necessary to permit a reasoned choice.” Further, an EIR “need not consider an alternative whose effect cannot be reasonably ascertained and whose implementation is remote and speculative.”

EID’s underlying project objective is to comply with the Writ. The primary objectives of the proposed project are to:

1. Provide water service to the Rancheria consistent with the May 2008 MOU.
2. Provide water service to the Rancheria in a manner consistent with EID’s plans, policies, and administrative regulations.
3. Provide sufficient water service to support the consumptive and fire suppression demands of existing development on the Rancheria, including approximately 24 residences, tribal administrative buildings, the gaming facility as developed in 2008, and all landscaping and planned uses.
4. Apply for and obtain, or work with the Tribe to apply for and obtain, a decision from the El Dorado LAFCO to remove the service restrictions from the annexation conditions imposed when the El Dorado LAFCO approved the annexation of the Rancheria to EID’s water service area in 1988.

#### 4.2 Alternatives Analysis

Alternatives considered and evaluated below include:

1. No Project Alternative
2. Water Trucking Alternative

3. Conservation/Recycled Water Alternative
4. Groundwater Alternative
5. Conjunctive Use Alternative

A description of each alternative is presented below along with a discussion of project-specific and cumulative environmental impacts and the relationship of the alternatives to proposed project objectives. It is important to note here that the proposed project does not have any significant environmental impacts. As stated, the purpose of an alternatives analysis is to identify ways to mitigate or avoid potentially significant environmental impacts. The fact that the proposed project would not result in any potentially significant impacts, therefore, must be considered in this particular alternatives analysis and in the conclusion that the proposed project is the environmentally superior alternative which also best satisfies the project objectives.

#### **4.2.1 Alternative 1 - No Project Alternative**

CEQA Guidelines section 15126.6(e)(1) requires that an EIR evaluate a “no project” alternative to provide a comparison of the impacts of approving the proposed project with the impacts of not approving the proposed project. Pursuant to CEQA Guidelines section 15126.6(e)(3)(B), the No Project Alternative discusses “the property remaining in its existing state” or the continuation of the existing condition (baseline). This alternative would continue to adhere to the conditions contained in the 1988 El Dorado LAFCO resolution approving the Rancheria’s petition to annex into the EID service area for the purpose of water service. EID would continue to provide water for residential uses only (40 residential lots, or 45 EDU), including accessory uses and for tribal use limited to community facilities, schools, playgrounds, recreational facilities, a residential home for tribal elders and community grazing or garden projects. The Tribe would not install new water service infrastructure for delivery of water from EID.

#### **Impact Analysis**

Under this alternative EID would not supply additional water beyond that currently approved under the 1988 El Dorado LAFCO resolution. In addition, no new water supply distribution infrastructure would be installed or operated. Therefore, none of the impacts identified for the proposed project would occur.

#### **Relationship to Project Objectives**

The No Project Alternative would not meet Project Objective 1 because EID would not provide water service to the Rancheria as described in the MOU. This alternative would meet Project Objective 2 because continuing to provide water consistent with the 1988 El Dorado LAFCO resolution would be consistent with EID’s plans, policies and administrative regulations. The No Project Alternative would not meet Project Objective 3 because the existing supply under the 1988 LAFCO agreement is inadequate to meet the consumptive water and fire suppression needs of the Rancheria for existing and planned uses. Because EID’s water service would conform to

the restrictions in the 1988 El Dorado LAFCO resolution, no action would be required from LAFCO as described in Project Objective 4.

## 4.2.2 Alternative 2 - Water Trucking Alternative

Under this alternative, water delivery would be provided by private water trucking companies that would truck water to the site on a daily basis for storage in a 200,000 gallon on-site potable water tank to supplement existing water supply from EID consistent with the El Dorado LAFCO 1988 resolution and existing on-site recycled water supply. It is assumed that water delivery of 135,000 gpd would be needed to meet the peak-day demand for the Tribe. Consistent with the assumptions presented in the 2001 Shingle Springs Rancheria Hotel and Casino Project EA/FONSI, assuming that a water truck that could haul 4,000 gallons per trip, approximately 34 trips per day would be required to meet this demand. As described in the 2001 EA/FONSI, water would be provided by Aeropure Water in Stockton, California, or a similar private company contracted by the Tribe.<sup>1</sup> Construction of above ground water storage tank(s) and improvements to existing water conveyance facilities on the Rancheria may be required but would be consistent with facilities described in the 2001 Shingle Springs Rancheria Hotel and Casino Project EA/FONSI. EID would continue to supply water to the Rancheria consistent with the El Dorado LAFCO 1988 resolution. EID would not install any new water supply infrastructure on or off of the Rancheria or supply water as set forth in the MOU.

### Impact Analysis

The Water Trucking Alternative would involve the construction and operation of one or more above-ground storage tanks and additional water supply distribution infrastructure beyond that proposed for the project. Therefore, additional ground disturbing and construction activities would occur which would result in similar types of short-term project-specific and cumulative construction-related impacts (air emissions, noise levels, greenhouse gas (GHG) emissions, biological resources, cultural resources, water quality, etc.) when compared to the proposed project, which is proposed to be installed primarily within an existing road; however these impacts would likely be greater in magnitude because more facilities likely would be required.

Potentially new significant operational (off-Rancheria) project-specific and cumulative impacts include visual impacts from nearby locations associated with new above-ground water storage tanks; and increased noise, air quality, and GHG emissions associated with 34 new round-trip water truck trips per day. In addition, this alternative would result in new impacts attributed to transportation and circulation including road maintenance and decreased levels of service along truck routes.

Under this alternative there would be no effect on EID water supply availability because EID would not be supplying water beyond that currently provided and approved in the 1988 El Dorado LAFCO resolution. However, potential new project-specific and cumulative impacts to

<sup>1</sup> Water trucking assumptions based on *Shingle Springs Rancheria Hotel and Casino Project Final Environmental Assessment/Finding of No Significant Impact*, December 2001.

water supply sources outside of the EID service area could occur, depending on the source of the trucked water and whether a new source of water would be developed to serve the Rancheria by truck, including new impacts to groundwater and surface water resources. The potential for this impact and the magnitude of such an impact would depend on the location and type of water resource being used for trucking.

Unlike the proposed project, depending on the magnitude of significance of impact under this alternative, mitigation measures could be required. Since the level of the impacts is not known, it is also not known whether the impacts associated with this alternative could be mitigated to a less-than-significant level.

### **Relationship to Project Objectives**

The Water Trucking Alternative would not meet Project Objective 1 because EID would not provide water service to the Rancheria as described in the MOU. This alternative would meet Project Objective 2 because continuing to provide water consistent with the 1988 El Dorado LAFCO resolution would be consistent with EID's plans, policies and administrative regulations. This alternative would meet Project Objective 3 as it was found to be a feasible water supply alternative in the Shingle Springs Rancheria Hotel and Casino Project EA/FONSI. Because EID's water service would conform to the restrictions in the 1988 El Dorado LAFCO resolution, no action would be required from LAFCO as described in Project Objective 4.

### **4.2.3 Alternative 3 - Conservation/Recycled Water Alternative**

Under this alternative, EID would continue to provide water service to the Rancheria consistent with the El Dorado LAFCO 1988 resolution through existing infrastructure. All other water supply demand on the Rancheria would be met through a combination of increased water conservation measures and the use of recycled water. At the time of the MOU, the Tribe had existing recycled water treatment, storage, and distribution facilities to meet the irrigation, toilet flushing, and fire suppression needs of the casino facility. It is unlikely that current recycled water facilities would produce an adequate supply to serve other uses on the Rancheria without expansion. Therefore, implementation of the Conservation/Recycled Water Alternative would likely require construction of new recycled water storage and distribution infrastructure. This alternative would also likely require upgrades to the existing Rancheria treatment facility to provide the additional recycled water supply necessary to meet demand. Implementation of this alternative could also necessitate changes in the water use for existing and planned Tribal development, and the construction of additional infrastructure or facilities to accommodate those changes. Because the recycled water supply physically cannot exceed the amount of water available to treat to recycled water standards, increased conservation measures would need to be focused on on-potable uses, and it is not certain that a combined increase in recycled water use and conservation could meet all service needs at the Rancheria. EID would not install any new water supply infrastructure on or off of the Rancheria or supply water as set forth in the MOU.

## Impact Analysis

The Conservation/Recycled Water Alternative would likely involve the construction and operation of new recycled water treatment, storage and distribution infrastructure. If so, additional ground disturbing and construction activities would occur which would result in similar types of short-term project-specific and cumulative construction-related impacts (air emissions, noise levels, GHG emissions, biological resources, cultural resources, water quality, etc.) when compared to the proposed project which is proposed to be installed primarily within an existing road; however impacts would likely be greater in magnitude because more facilities could be required. Potentially new significant operational project-specific and cumulative impacts would include visual impacts associated with the new above ground facilities; and increased noise levels associated with the operation of new pumps. Unlike the proposed project, depending on the magnitude of significance of impact under this alternative, mitigation measures could be required to mitigate impacts to a less-than-significant level. Under this alternative there would be no effect on EID water supply availability because EID would not be supplying water beyond service consistent with the 1988 El Dorado LAFCO resolution, unless the combination of increased conservation and recycled water proved insufficient, in which case there might be a need for EID to supply additional water.

## Relationship to Project Objectives

The Conservation/Recycled Water Alternative would not meet Project Objective 1 because EID would not provide water service to the Rancheria as described in the MOU. This alternative would meet Project Objective 2 because continuing to provide water consistent with the 1988 El Dorado LAFCO resolution would be consistent with EID's plans, policies and administrative regulations. It is uncertain whether this alternative would meet Project Objective 3 because it is not proven that EID water supply, consistent with the 1988 El Dorado LAFCO resolution, combined with increased recycled water supply and water conservation, would be adequate to meet the consumptive water and fire suppression needs of the Rancheria for existing and planned uses. If EID's water service continued to conform to the restrictions in the 1988 El Dorado LAFCO resolution, no action would be required from LAFCO as described in Project Objective 4; if additional EID water supplies were necessary, LAFCO action would be required and Project Objective 4 would be met.

### 4.2.4 Alternative 4 - Groundwater Alternative

Under the Groundwater Alternative, the Tribe would develop additional groundwater wells to provide water to support existing and planned growth on the Rancheria. Currently there is one on-site well on the Rancheria, located along Honpie Road near the intersection with Koto Road, which is currently used for fire suppression. This well was drilled in April 1980, to a depth of 250 feet and was reported to initially produce water at a rate of 20 gpm; however, the well's production rate fluctuates as a result of poor and limited recharge<sup>2</sup> that is common to the region. To facilitate the Groundwater Alternative, an unknown number of new wells would need to be installed and

<sup>2</sup> *Shingle Springs Rancheria Hotel and Casino Project Final Environmental Assessment/Finding of No Significant Impact*, December 2001.

operated. Groundwater pumping tests would be required to confirm the total number of wells and safe yield. Construction of storage tanks and modifications to local water distribution facilities would be required to allow for storage of groundwater during periods of peak demand and for fire suppression and distribution of the groundwater to Rancheria uses. Under this alternative, EID would continue to supply water to the Rancheria consistent with the El Dorado LAFCO 1988 resolution, through existing infrastructure. EID would not install any new water supply infrastructure on or off of the Rancheria or supply water as set forth in the MOU.

### **Impact Analysis**

The Groundwater Alternative would involve the installation of new groundwater wells. Given the limited amount of equipment and staging area needed to drill groundwater wells, the installation of the wells themselves would result in limited construction impacts. However, implementation of this alternative would also require the construction of storage and distribution facilities that would likely result in similar types of short-term project-specific and cumulative construction-related impacts (air emissions, noise levels, GHG emissions, biological resources, cultural resources, water quality, etc.) when compared to the proposed project. Because the location and number of new wells to be constructed is unknown, temporary construction impacts could be less than or greater in magnitude when compared to the proposed project, which is located primarily within an existing road. Potentially new significant operational project-specific and cumulative impacts would include visual impacts associated with the new above ground well and storage facilities; and increased noise associated with new well pumps. In addition, there would be new impacts to groundwater levels associated with additional pumping of groundwater that could significantly affect wells adjacent to the Rancheria and over time could affect groundwater over a broader area, including private wells outside of the Rancheria. Unlike the proposed project, depending on the magnitude of significance of impact under this alternative, mitigation measures could be required. Lastly, because groundwater production and recharge on the Rancheria has historically been limited and has fluctuated during drought conditions,<sup>3</sup> there is a possibility that the construction of additional groundwater wells would still result in insufficient water supply to meet the consumptive water and fire suppression needs of the Rancheria for existing and planned uses, or that the reliability concerns would result in an even greater number of wells being drilled and greater impacts on the groundwater in the vicinity of the Rancheria. Under this alternative there would be no effect on EID water supply availability because EID would not be supplying water beyond service consistent with the 1988 El Dorado LAFCO resolution, unless groundwater sources proved insufficient, in which case there may be a need for EID to supply additional water.

### **Relationship to Project Objectives**

The Groundwater Alternative would not meet Project Objective 1 because EID would not provide water service to the Rancheria as described in the MOU. This alternative would meet Project Objective 2 because continuing to provide water consistent with the 1988 El Dorado LAFCO resolution would be consistent with EID's plans, policies and administrative regulations. It is

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<sup>3</sup> Shingle Springs Rancheria Hotel and Casino Project Final Environmental Assessment/Finding of No Significant Impact, December 2001.

uncertain whether this alternative would meet Project Objective 3 because it is unproven whether the combination of EID water supply consistent with the 1988 El Dorado LAFCO resolution and groundwater would be adequate to meet the consumptive water and fire suppression needs of the Rancheria for existing and planned uses because of the uncertainty of adequate potable groundwater supplies on the project site as described above. If EID's water service continued to conform to the restrictions in the 1988 El Dorado LAFCO resolution, no action would be required from LAFCO as described in Project Objective 4; if additional EID water supplies were necessary, LAFCO action would be required and Project Objective 4 would be met.

#### **4.2.5 Alternative 5 - Conjunctive Use Alternative**

The Conjunctive Use Alternative examines the potential for the Tribe to meet its existing and planned water supply needs of approximately 135,000 gpd through a combination of increased water conservation efforts, increased use of recycled water, increased use of groundwater, and water trucking. Each of these water supply sources are described previously in subsections 4.2.2 through 4.2.4. Implementation of Conjunctive Use Alternative would require construction and operation of storage tanks, water supply distribution infrastructure, and groundwater wells on the Rancheria. The number of water trucks required to supply the Rancheria would be reduced to some degree from the Water Trucking Alternative but would likely still make up the majority of the water supply given the limitations and uncertainties of increased water conservation, increased recycled water use, and groundwater supplies. Under this alternative, EID would continue to supply water to the Rancheria consistent with the El Dorado LAFCO 1988 resolution, through existing infrastructure. EID would not install any new water supply infrastructure on or off of the Rancheria or supply water as set forth in the MOU.

#### **Impact Analysis**

The Conjunctive Use Alternative would involve the construction and operation of storage tanks, water supply distribution infrastructure, groundwater wells, and the expansion of recycled water treatment and distribution facilities on the Rancheria. Therefore, additional ground-disturbing and construction activities would occur which would result in similar types of short-term project-specific and cumulative construction-related impacts (air emissions, noise levels, GHG emissions, biological resources, cultural resources, water quality, etc.) when compared to the proposed project, which is proposed to be installed primarily within an existing road; however they would likely be greater in magnitude because more facilities could be required.

Potentially significant new project-specific and cumulative operational impacts would include visual impacts associated with the new above ground facilities; and increased noise levels associated with the operation of new pumps. Unlike the proposed project, trucking water would result in increased noise, air quality, and GHG emissions associated with the new round trip water truck trips. In addition, this alternative would result in new impacts associated with transportation and circulation including road maintenance and decreased levels of service along truck routes. There also would be impacts to groundwater levels associated with the additional pumping of groundwater that could affect production of neighboring wells off the Rancheria. The use of trucked water could

also result in new impacts to water supply sources outside of the EID service area depending on whether a new source of water would be developed to serve the Rancheria, including new impacts to groundwater and surface water resources. The potential for this impact and the magnitude of such an impact would depend on the location and type of water resource being used for trucking.

Unlike the proposed project, depending on the magnitude of significance of impact under this alternative, mitigation measures could be required. Since the level of the impact is not known, it is also not known whether this impact could be mitigated to a less-than-significant level. Under this alternative there would be no effect on EID water supply availability because EID would not be supplying water beyond that approved in the 1988 El Dorado LAFCO resolution.

### **Relationship to Project Objectives**

The Conjunctive Use Alternative would not meet Project Objective 1 because EID would not provide water service to the Rancheria as described in the MOU. This alternative would meet Project Objective 2 because continuing to provide water consistent with the 1988 El Dorado LAFCO resolution would be consistent with EID's plans, policies and administrative regulations. This alternative would meet Project Objective 3 by providing a reliable water supply to the Tribe through water trucking, which was found to be a feasible water supply alternative in the Shingle Springs Rancheria Hotel and Casino Project EA/FONSI, and which would supplement increased conservation/recycled water and groundwater supplies to the extent necessary. Because EID's water service would conform to the restrictions in the 1988 El Dorado LAFCO resolution, no action would be required from LAFCO as described in Project Objective 4.

## **4.3 Environmentally Superior Alternative**

CEQA requires identification of an environmental superior alternative; that is, the alternative that has the least significant impacts on the environment. **Table 4-1** presents a comparison of the scale of impacts by issue area for the proposed project and each of the alternatives. While there is some uncertainty about the magnitude of some of the impacts of the studied alternatives when compared to the proposed project, in most cases it is clear that the level of impact for each action alternative is equal to or greater than the proposed project because the impacts of the proposed project are none or negligible. While the No Project Alternative would not result in any environmental impacts because no new infrastructure would be constructed and operated, it would not achieve most of the project objectives.

As shown in Table 4-1 and as discussed in the alternatives analysis above, none of the alternatives other than the No Project Alternative is clearly environmentally superior to the proposed project. When the No Project Alternative is the environmentally superior alternative, CEQA Guidelines section 15126.6(e)(2) states that the EIR shall also identify an environmentally superior alternative from among the other alternatives. When none of them is environmentally superior to the proposed project, it is sufficient for the EIR to explain the environmental advantages and disadvantages of each in comparison to the proposed project. In this case, the proposed project represents the environmentally superior alternative. All proposed alternatives other than the No Project Alternative



have the potential to result in greater project-specific and cumulative environmental impacts when compared with the proposed project, specifically related to air emissions, noise levels, GHG emissions, biological resources, cultural resources, water quality, groundwater resources, and transportation and circulation. Furthermore, only the proposed project would achieve all of the stated project objectives.

**TABLE 4-1  
COMPARISON OF ENVIRONMENTAL EFFECTS OF THE  
ALTERNATIVES TO THE PROPOSED PROJECT**

Environmental Issue Area	Proposed Project	No Project	Water Trucking	Conservation/ Recycled Water	Groundwater	Conjunctive Use
Aesthetics	LS	-	+	+	+	+
Agriculture and Forestry	NI	0	0	0	0	0
Air Quality	LS	-	+	+	+	+
Biological Resources	LS	-	+	+	+	+
Cultural Resources	LS	-	+	+	+	+
Geology/Soils	LS	-	+	+	+	+
Greenhouse Gas Emissions	LS	-	+	+	+	+
Hazards/ Hazardous Materials	LS	-	0	0	0	0
Hydrology/Water Quality	LS	-	+	+	+	+
Land Use/Planning	LS	-	0	0	0	0
Mineral Resources	NI	0	0	0	0	0
Noise	LS	-	+	+	+	+
Population/Housing	LS	-	0	0	0	0
Public Services	NI	0	0	0	0	0
Recreation	LS	-	0	0	0	0
Transportation/Traffic	LS	-	+	0	0	+
Water Supply	LS	-	+	-	+	+
Cumulative Water Supply	LS	-	-	-	-	-

NI = No Impact  
LS = Less than Significant Impact  
When compared to the proposed project would the Alternative:  
Substantially Lessen or Avoid Impact (-)  
Result in Increased Impact (+)  
Result in Same Impact (0)

As it relates to the Conservation/Recycled Water and Conjunctive Use Alternatives, the feasibility and scale of the required facilities to meet the proposed water demand through conservation and water recycling is currently unknown and would require a detailed engineering analysis to determine if this level of conservation and water recycling is feasible and would be able to meet existing and planned development on the Rancheria. The Groundwater Alternative would result in a potentially unreliable supply based upon historical groundwater supply reliability issues present on the Rancheria. Additionally, increased groundwater pumping has the potential to result in significant impacts related to drawdown of existing wells adjacent to the Rancheria. Thus, reliability on groundwater is suspected to be insufficient to meet future long-term water supply needs for the Rancheria.

## CHAPTER 5

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### Other CEQA Considerations

Section 15126 of the CEQA Guidelines requires that all aspects of a project be considered when evaluating its impact. As part of this analysis, an EIR must identify: (1) potentially significant environmental effects of the proposed project (project-specific and cumulative); (2) potentially significant environmental effects that cannot be avoided if the proposed project is implemented; (3) potentially significant irreversible environmental changes that would result from implementation of the proposed project; and (4) potential growth-inducing impacts of the proposed project. This chapter of the EIR includes the following sections to address the requirements of Section 15126: 5.1 Growth-Inducing Analysis; 5.2 Cumulative Impacts (see also Chapter 3); 5.3 Significant Irreversible Environmental Changes; and 5.4 Significant and Unavoidable Impacts.

#### 5.1 Growth-Inducing Impacts

##### 5.1.1 CEQA Definition of Growth Inducement

The CEQA Guidelines require that an EIR evaluate the growth-inducing impacts of a proposed project (Section 15126.2[d]). A growth-inducing impact is defined by the CEQA Guidelines as:

*[T]he ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. Included in this are projects which would remove obstacles to population growth... It must not be assumed that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment.*

A project could directly and/or indirectly induce growth. Direct growth inducement could result if a project resulted in establishing a new demand for public services, facilities, or infrastructure, such as construction of new housing. Indirect or secondary growth could occur if a proposed project would establish substantial new permanent employment opportunities (e.g., commercial, industrial or governmental enterprises) or if it would involve a substantial construction effort with substantial short-term employment opportunities and indirectly stimulate the need for additional housing and services to support the new employment demand.

A project could indirectly induce growth if it would remove an obstacle to additional growth and development, such as removing a constraint or increasing the capacity of a required public service, such as increased water supply capacity. As defined in the CEQA Guidelines, growth inducement itself is not necessarily an adverse impact; however it is the potential consequences of growth, the secondary effects of growth, which may have an environmental impact. Potential

secondary effects of growth include increased demand for other community and public services and infrastructure, increased traffic and noise, and adverse environmental impacts such as degradation of air and water quality, degradation or loss of plant and animal habitats, and conversion of agricultural and open space land to developed uses.

### 5.1.2 Approach to Analyzing Growth-Inducing Effects

The proposed project would result in a direct growth inducement effect if it would establish new demand for public services, facilities, or infrastructure, such as construction of new housing. The proposed project would result in an indirect growth inducement effect if it removed an obstacle to growth (for example, causing EID to increase its water supply or the capacity of its delivery system) or contributed to secondary effects due to population growth and associated development.

An adverse secondary impact could occur if the growth induced as a result of the proposed project is not consistent with or accommodated by a local planning document, typically a General Plan and EIR. General plans and other local land use plans provide for land use development patterns and growth policies that allow for the “orderly” expansion of urban development supported by adequate urban public services, such as water supply, sewer service, and new roadway infrastructure. A project that would induce “disorderly” growth (i.e., a project in conflict with local land use plans and policies) could indirectly cause adverse environmental impacts, for example, loss of agricultural land that has not been addressed in the planning process.

However, in the case of the proposed project, the Rancheria is held in trust for the Shingle Springs Band of Miwok Indians by the federal government, and therefore physical improvements on the Rancheria are not subject to El Dorado County land use jurisdiction. As described in Section 3.2, land use on the Rancheria is governed by a Tribal Land Use Plan and specific development ordinances consistent with the El Dorado County General Plan. The Tribe has identified the proposed project as being consistent with the Tribal Land Use Plan. Thus, development on the Rancheria pursuant to the Tribe’s sovereign land-use authority is consistent with the El Dorado County General Plan.

### 5.1.3 Analysis

Under the proposed project, EID would provide water service to the Shingle Springs Rancheria consistent with the MOU and the Tribal Land Use Plan to serve existing uses on the Rancheria. EID would provide the Rancheria with water service at a maximum rate of 95 gpm and an average volume of 135,000 gpd (a net increase of 215.75 EDU over the existing 45 EDU of service). The WSA prepared for the proposed project (Appendix C) identified that projected EID water supplies available during normal, single dry and multiple dry years would meet the projected water demands for existing and planned future population and growth, including demand associated with the project, during the 20-year projection period. The project does not necessitate or include any increases in water supply capacity beyond those already included in EID’s 2010 UWMP.

All proposed water supply distribution facilities would be constructed specifically to serve the Rancheria consistent with the MOU and Tribal Land Use Plan, and would not serve other uses

outside the Rancheria or be used to foster additional unplanned growth within the Rancheria. These facility improvements accordingly do not increase the capacity of EID's water delivery system. Growth and development on the Rancheria, including the casino and hotel, would occur with or without the proposed project and were reviewed pursuant to NEPA and CEQA. Specifically, the casino and hotel project was reviewed pursuant to NEPA in 2001. Caltrans and the BIA also prepared and certified a joint NEPA/CEQA document in 2002, which analyzed off-Rancheria impacts of the interchange and the hotel and casino. Measures to protect sensitive environmental resources as a result of potentially significant impacts, including growth inducing impacts associated with development on the Rancheria, were implemented. Measures identified to reduce potentially significant adverse impacts associated with the development of the hotel and casino project included the installation of water supply infrastructure consistent with the proposed project. Because the proposed project would only serve existing and planned development on the Rancheria, potential growth associated with such development has been analyzed and mitigated as part of the Shingle Springs Rancheria Hotel and Casino Project Final EA/FONSI. The proposed project would not add water supply capacity or infrastructure for uses outside the Rancheria or result in capacity to be added to existing water systems. Therefore, the proposed project would not result in direct or indirect growth inducing impacts.

## 5.2 Cumulative Impacts

### 5.2.1 Methodology

A project may have significant environmental effects when viewed in connection with the effects of past, other current, and probable future projects. CEQA Guidelines Sections 15065(a)(3) and 15130(a) define these effects as "cumulatively considerable," and require that these impacts are discussed within an EIR. Section 15130(b) of the CEQA Guidelines states that the following three elements are necessary to an adequate discussion of significant cumulative impacts:

- Either: (A) a list of past, present, and probable future projects producing related or cumulative impacts, including those projects outside the control of the Lead Agency (i.e., the list approach); or (B) a summary of projections contained in an adopted general plan or related planning document or in a prior adopted or certified environmental document that described or evaluated regional or area-wide conditions contributing to the cumulative impact (i.e., the plan approach).
- A summary of expected environmental effects to be produced by those projects with specific reference to additional information stating where that information is available.
- A reasonable analysis of the cumulative impacts of the relevant projects. An EIR shall examine reasonable, feasible options for mitigating or avoiding the Project's contribution to any significant cumulative effects.

### 5.2.2 Context for Cumulative Impacts Analysis

UWMPs are prepared by California's urban water suppliers to support their long-term resource planning and ensure adequate water supplies are available to meet existing and future water

demands. Every urban water supplier that either provides over 3,000 acre-feet of water annually or serves more than 3,000 or more connections is required to assess the reliability of its water sources over a 20-year planning horizon, updated every 5-years, and must consider normal, dry, and multiple dry years. Thus the context of water supply described within UWMPs is cumulative in nature, and the UWMP provides the required background elements for this cumulative impacts analysis.

In preparing the 2010 UWMP, the District coordinated with other appropriate agencies in the area, including other water suppliers that share a common source, water management agencies, and relevant public agencies. Specifically, the District coordinated with and sent a letter to the EDCWA, the El Dorado County Planning Department, the City of Placerville, and the City of Folsom.

As described above, the CEQA Guidelines identify two basic methods for establishing the cumulative environment in which the project is to be considered: the use of a list of past, present, and reasonably anticipated future projects, or the use of adopted projections from a general plan or other regional planning document. The focus of this EIR is existing and future water supply availability; hence, it uses the second approach. The 2010 UWMP and WSA are the regional water supply planning documents, and therefore provide the background context for that analysis. All other issues were determined to be less than significant or have no impact in the Initial Study Checklist (Appendix A), and therefore required no further analysis. Because the focus of the analysis is on current and future water supply availability that draws from the EID 2010 UWMP and WSA, the analysis presented in Section 3.2, Water Supply, provides a cumulative context for analysis, and therefore the cumulative analysis in this EIR relies on the “plan approach” for identifying and evaluating cumulative impacts.

The cumulative impact analysis presented here is a summary of the discussion provided in Section 3.2, which relied on data contained in the proposed project WSA (Appendix C) and from EID’s 2010 UWMP. The water demand projections contained in the UWMP, which are incorporated in this EIR and in the WSA, were generated by EID based on population projections within EID’s service area (see Table 2-1 in Chapter 2, Project Description).

As discussed in Chapter 2, the growth and population projection assumptions used in support of the UWMP were developed based on historical growth patterns within EID’s service area, combined with market research, and new housing unit commitments (i.e., issued permits or approved subdivisions) for future conditions. Water demand projections were estimated, within the UWMP, based on a combination of population projections (see top row of Table 2-1) and historic and target per capita water use rates, as described in Section 3 of the 2010 UWMP. In this manner, the water demand projections contained in the UWMP provide a sufficient basis for evaluating cumulative project impacts through the 20-year projection timeframe of the 2010 UWMP.

### 5.2.3 Cumulative Impact Analysis

The water supply and demand projections contained in the WSA for the proposed project, as well as EID’s 2010 UWMP, consider the potential effects of ongoing growth and associated increases

in population and water use that would result from estimated growth in housing, commercial/industrial uses, landscape, agricultural, and other authorized water uses. These demands within EID's service area are summarized in Table 3.2-4 (Section 3.2, Water Supply). Additional demands, including water sales to other agencies, losses, and other demands, are also considered within the UWMP, and have been incorporated into the demand figures contained Tables 3.2-7, 3.2-8, and 3.2-9. Similarly, water supply projections included in Tables 3.2-7, 3.2-8, and 3.2-9 include water that is currently available under existing conditions, as well as water available from existing and new supplies, as relevant throughout the 2010 to 2030 timeframe, based on UWMP data. Therefore, the analysis of the project-specific impact contained in subsection 3.2.4 of Section 3.2, Water Supply, is also relevant to the cumulative impact analysis presented here, because the demand and supply values described in Section 3.2 reflect cumulative conditions for the 2015-to-2030 projection timeframe and reflect the proposed project's impact on those cumulative conditions.

In accordance with the analysis presented in Section 3.2, sufficient water would be available to provide water to the proposed project, in combination with anticipated cumulative water demand and cumulative water supply conditions, through 2030. Specifically, even without continued implementation of water conservation practices, and without implementation of drought-related demand reduction requirements, the WSA and the 2010 UWMP conclude that sufficient water supply would be available to EID to serve anticipated cumulative demand, including the proposed project, during normal, single dry, and multiple dry years through 2030. Therefore, considering the potential effects of climate change on water supply, a combination of ongoing water conservation planning and dry year demand reduction requirements are expected to be sufficient to maintain supply even during multiple year drought conditions. As a result, the cumulative water supply impact of the proposed project would be less than significant.

### 5.3 Significant Irreversible Environmental Changes

CEQA Guidelines Section 15126.2(c) requires an evaluation of the significant irreversible environmental changes that would be caused by a project if implemented, as described below:

*Uses of nonrenewable resources during the initial and continued phases of the project may be irreversible since a large commitment of such resources makes removal or nonuse there after unlikely. Primary impacts, and, particularly, secondary impacts (such as highway improvement which provides access to a previously inaccessible area) generally commit future generations to similar uses. Also, irreversible damage can result from environmental accidents associated with the project. Irretrievable commitments of resources should be evaluated to assure that such current consumption is justified.*

The CEQA Guidelines discuss the need to evaluate and justify the consumption of nonrenewable resources and the extent to which the project commits future generations to similar uses of nonrenewable resources. In addition, CEQA requires that irreversible damage resulting from an environmental accident associated with the project be evaluated.

Construction of the proposed project would indirectly result in a commitment of nonrenewable natural resources. Construction and installation of the proposed project facilities, including the

flow meter vault, 4,025 feet of new 12-inch water supply pipeline, and backflow prevention assembly structure would result in the commitment of nonrenewable nature resources such as gravel, petroleum products, steel and other materials. However, use of nonrenewable natural resources would be limited due to the limited scope of new project facilities. Project operation would result in a commitment of energy resources such as fossil fuels as part of routine maintenance activities; however, maintenance activities associated with the proposed project would be minimal when compared to existing conditions. Therefore, the amount of nonrenewable resources required to serve the proposed project would be limited. It is assumed that the rate and amount of energy consumptions would not result in the unnecessary, inefficient or wasteful use of resources and would be accomplished in a manner consistent with applicable laws and regulations.

#### **5.4 Significant and Unavoidable Impacts**

CEQA Guidelines Section 15126.2(b) states that an EIR must describe any significant impacts, including those that can not be mitigated to a level of insignificance. Implementation of the proposed project would not result in any significant and unavoidable impacts.

## **CHAPTER 6**

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## CHAPTER 7

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### El Dorado Irrigation District

### Water Supply Assessment for the Memorandum of Understanding for Water Service to the Shingle Springs Rancheria

September 12, 2011



Prepared for

### ESA

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K/J Project No. 1070024\*00

**Kennedy/Jenks Consultants**

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## Section 1: Introduction and Background

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### 1.1 Introduction

This Water Supply Assessment (WSA) has been prepared for El Dorado Irrigation District (EID or District) to analyze the District's ability to provide an increase in annual water service to the Shingle Springs Rancheria (Rancheria or Tribe) over pre-project conditions, consistent with the terms and conditions of the 2008 Memorandum of Understanding (MOU) between the District and Rancheria. This WSA has been prepared pursuant to the statutory enactment (Public Resources Code Section 21151.9, and California Water Code Sections 10631, 10657, 10910, 10911, 10912, and 10915 as applicable) referred to as Senate Bill (SB) 610. SB 610 amended state law, effective 1 January 2002, to improve the link between information on water supply availability and certain land use decisions made by cities and counties. SB 610 requires a water supply assessment to be included in the environmental documentation of certain proposed projects.

This WSA evaluates water supplies that are or will be available during normal, single dry and multiple dry water years for 20-years in the future, to meet existing demands, expected demands of the Rancheria, and reasonably foreseeable planned future water demands served by the water purveyor.

### 1.2 Background

In 2001, the California Department of Transportation (Caltrans) and the Tribe finalized an agreement by which Caltrans would work with the Tribe so the Tribe could construct an interchange connecting Highway 50 to the Rancheria. That interchange would allow the Tribe to construct and operate a casino and hotel on the Rancheria pursuant to a gaming compact with the State of California and certain approvals from the National Indian Gaming Commission (NIGC) and the Bureau of Indian Affairs (BIA). The casino and hotel project was reviewed pursuant to National Environmental Policy Act (NEPA) and an Environmental Assessment (EA) was prepared<sup>1</sup>. Caltrans and the BIA also prepared and certified a joint EA/EIR in 2002<sup>2</sup>, which analyzed off-Rancheria impacts of the interchange and the hotel and casino. Federal courts upheld legal challenges to both the EA and joint EA/EIR. State court litigation on the joint EA/EIR resulted in Caltrans preparing a Supplemental EIR<sup>3</sup>. Ultimately, the California Court of Appeal upheld Caltrans's environmental review of the interchange and hotel and casino, and, in 2008, the California Supreme Court declined to review the case, ending the litigation. The Tribe opened the hotel and casino in late 2008.

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<sup>1</sup> National Indian Gaming Commission, *Shingle Springs Rancheria Hotel and Casino Project Final Environmental Assessment/Finding of No Significant Impact*, December 2001.

<sup>2</sup> California Department of Transportation, *Shingle Springs Interchange Project Final Environmental Impact Report/Environmental Assessment*, September 2002

<sup>3</sup> California Department of Transportation, *Shingle Springs Interchange Project Final Supplemental Environmental Impact Report*, August 2006.

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Also in 2008, EID and the Tribe entered into a MOU stating that the District would provide the Rancharia with water service at a maximum rate of 95 gallons per minute (gpm) and an average volume of 135,000 gallons per day (gpd). This agreement provided for a net increase of 215.75 Equivalent Dwelling Units (EDU)<sup>4</sup> over the existing 45 EDUs of water service EID was already providing the Tribe.

EID's existing 45 EDU of water service to the Tribe conformed to limitations imposed in a 1988 resolution of the El Dorado County Local Agency Formation Commission (LAFCO) approving the petition of the Shingle Springs Rancharia to annex into the EID service area for the purpose of water service. The resolution included a condition that EID provide water for residential uses only, including accessory uses and for tribal use limited to community facilities, schools, playgrounds, recreational facilities, a residential home for tribal elders and community grazing or garden projects. A further condition limited water service to that necessary to serve a community of 40 residential lots.

In connection with its approval of the MOU, EID stated that the El Dorado LAFCO restrictions were not binding because they were in conflict with achieving congressionally approved uses of the Rancharia, including the hotel and casino, and were therefore legally preempted. The District prepared a Notice of Exemption under California Environmental Quality Act (CEQA) for adopting and implementing the MOU. Following adoption of the MOU, the Tribe completed the physical improvements on the Rancharia necessary to receive water service consistent with its provisions.

Approval of the MOU with a CEQA exemption was subsequently challenged in El Dorado County Superior Court (Court). In a December 15, 2009, decision (*Voices for Rural Living v. El Dorado Irrigation District, et. al.*), the Court concluded that the District's Notice of Exemption was improper. Specifically, the Court found that the administrative record contained evidence to support a fair argument that the MOU could have a significant impact on the District's cumulative water supplies, particularly during severe drought conditions. The Court, therefore, directed EID to prepare an EIR. The Court did not identify any other environmental impacts or impact categories for which substantial evidence in the record supported a fair argument that the MOU could significantly impact the environment.

On September 13, 2010, the Court issued the Writ, providing that EID may only adopt a MOU with the Rancharia or other agreement to provide water service to the Rancharia after EID has: (1) complied with CEQA; and (2) secured any necessary approvals from the El Dorado LAFCO. The Writ further states that EID may continue to provide water service to the Rancharia in an amount not to exceed what the MOU allows and on terms not inconsistent with the MOU, so long as the District is actively pursuing the actions described above in (1) and (2). The District

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<sup>4</sup> An Equivalent Dwelling Unit is the amount of water an average single-family residence in the same part of EID's service area would consume annually.

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has prepared its response to the Writ in the form of an EIR<sup>5</sup>, and the Writ, therefore, defines the required scope of the EIR analysis. To provide a complete assessment of potential impacts of the proposed project (Project) and in response to the Writ, existing conditions (or baseline) regarding water supply is defined as those water supply conditions that existed before EID approved the MOU.

Therefore, the Project is defined as EID providing water service to the Shingle Springs Rancheria consistent with the MOU (maximum continuous flow of 95 gpm and a maximum average daily delivery of 135,000 gpd), the relocation of an existing flow meter vault, the abandonment in place of existing six inch waterlines, and the installation of a new 4,025 12-inch pipeline on the Rancheria to connect with EID's existing water supply infrastructure.

### 1.3 Project Water Demand

The MOU between the District and the Rancheria allowed for an annual water service at a maximum rate of 95 gpm and an average volume of 135,000 gpd. The maximum supply allowed to the Project is 154 acre feet per year (AFY). Past meter information of water usage by the Project showed that the average maximum demand was 129,725 gpd for July and August 2009, which was 5,000 gpd below the imposed MOU limit. The meter data showed significantly lower usage in the winter months; however, this WSA assumes that the Rancheria will have an average daily demand at a constant 135,000 gpd, consistent with the terms and conditions of the MOU.

### 1.4 Capital Outlay Program [Section 10910(d)(2)(B)]

This subsection requires a copy of the capital outlay program for financing the delivery of the water supply that has been adopted by the District, a public water system.

Infrastructure improvements required for the proposed Project are within the Rancheria and will be constructed and funded by the Rancheria; none will be constructed nor funded by the District. However, all facilities that were to be owned by the District were plan-checked by District engineers before construction, inspected by District staff during construction, and tested prior to operation. Concurrent with accepting ownership of the facilities, the District obtained recorded easements for access and ongoing operation and maintenance. The Rancheria has not provided specific information regarding capital funding. Proposed Project components are discussed in previous sections and are summarized below:

#### **Potable Water**

- Abandon 6-inch water pipeline in place and remove the existing water meter.
- Construct 4,025 linear feet of 12-inch water pipeline.

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<sup>5</sup> El Dorado Irrigation District Memorandum of Understanding for Water Service to the Shingle Springs Rancheria Draft Environmental Impact Report, State Clearinghouse No. 2011022045, November, 2011.



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- Install a new 3-inch water meter, vault and appurtenances.

#### 1.4.1 Required Permits [Section 10910(d)(2)(C)]

This subsection requires identification of any federal, state, and local permits that are required for construction of necessary infrastructure associated with delivering the water supply to the proposed Project.

No new infrastructure would be constructed off the Rancheria in the EID service area and existing EID operations would remain unchanged, therefore no permits are necessary. The Tribe installed the Project water service infrastructure on the Rancheria in 2008; and it has been in continuous operations since being placed into service that year.<sup>6</sup> The Tribe is responsible for the construction of any new infrastructure on the downstream side of the flow meter, including backflow protection. As part of EID's and the Tribe's respective construction responsibilities, EID would abandon existing easements on Rancheria land, and the BIA would grant EID easements for all new lines to allow EID acceptance, control, and maintenance of the facilities delivering water to the Tribe. Water service on the Rancheria would be provided through a tribal utility district independent of EID.

#### 1.4.2 Regulatory Approvals [Section 10910(d)(2)(D)]

This subsection requires identification of any regulatory approvals that are required to convey or deliver the water supply to the proposed Project.

##### 1.4.2.1 LAFCO

As described in Section 1.2 Background, in 1988, the El Dorado County LAFCO adopted a resolution approving the Rancheria petition to annex into the District service area for the purpose of water service. The resolution included a condition that EID provide water for residential uses only, including accessory uses and for tribal use limited to community facilities, schools, playgrounds, recreational facilities, a residential home for tribal elders and community grazing or garden projects. A further condition imposed was that water service was to be limited to that necessary to serve a community of 40 residential lots (equivalent to 45 EDUs).

The MOU stated that the LAFCO restrictions were not binding because they were in conflict with achieving congressionally approved uses of the Rancheria, including the hotel and casino, and were therefore preempted. The 2010 Writ states that EID may only adopt a MOU with the Rancheria or other agreement to provide water service to the Rancheria after EID has: (1) complied with CEQA; and (2) secured any necessary approvals from LAFCO. The Writ further states that EID may continue to provide water service to the Rancheria in an amount not to exceed what the MOU allows and on terms not inconsistent with the MOU, so long as the District is actively pursuing the actions described above in (1) and (2).

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<sup>6</sup> Consistent with the Writ; however, the analysis of the description of the Project and analysis of environmental impacts in the Draft EIR assumes these water service improvements are not yet constructed.

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**1.4.2.2 Water Distribution System Improvements**

The Project includes the installation of a new three-inch flow meter, 12-inch water pipeline and associated appurtenances (including a backflow prevention assembly structure). The District followed all standard plan review, inspection, and testing procedures for this new waterline and appurtenances prior to acceptance as part of the District water distribution system.

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## Section 2: Elements of a WSA (Water Code Section 10910)

This Section describes the required elements of the WSA, as outlined by the California Water Code, specifically Section 10910.

The format of the WSA is intended to follow Water Code Sections 10910 – 10915 to delineate clearly the specific requirements of a WSA. This Section is structured according to those requirements. Section 10910 of the Water Code is intended to evaluate if existing supply sources are adequate to meet the Project demands. What follows is a breakdown of the elements of the Water Code that respond to the adequacy of existing supplies. If Section 10910 is satisfied, the WSA can move forward with a positive finding of sufficiency in water supplies. If Section 10910 is not satisfied, further evaluation into planned water supply sources and projects need to be included as per Section 10911 of the Water Code.

### 2.1 Determine if the Project is Subject to CEQA [Water Code Section 10910(a)]

The Project has been determined to be subject to CEQA.

### 2.2 Determine if the Project is a "Project" [Water Code Section 10912(a) or (b)]

The Project has been determined to be a "project" as set forth by the Water Code and is subject to SB 610.

### 2.3 Does the Project include a Subdivision [Government Code 66473.7(a)(1)]

The Project does not include a "subdivision" as defined by California Government Code Section 66473.7(a)(1). Therefore, the project is not subject to SB 221.

### 2.4 Identify Responsible Public Water System [Section 10910(b)]

The District is the public water system responsible for providing water to the Project.

### 2.5 Determine if the Project has already been Assessed [Section 10910(h)]

No previous SB 610-compliant WSA has been completed, although the District did assess the sufficiency of water supplies to meet water demands specific to this Project pursuant to its own policies, regulations, and procedures prior to entering into the MOU.

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2.6 Determine if there is an adopted Urban Water Management Plan (UWMP) [Section 10910(c)(1)]

The District adopted the 2010 Update to its Urban Water Management Plan (UWMP) on June 27, 2011 and submitted it to California Department of Water Resources on July 8, 2011. Population, water demand and water supply data and projections in this WSA are from the 2010 UWMP Update.

2.7 Determine if the Project is Accounted for in the UWMP [Section 10910(c)(2)]

The 2010 UWMP Update does not specifically identify this Project in its water future demand projections. Although the Project is included as an existing demand, due to the county land use assigned to the Rancheria for the parcel, the future demand of this Project is not included in the 2010 UWMP Update's calculation for future demands. Therefore, the full Project water demand is being analyzed in this document as a future projected demand that has not been accounted for as part of the District's most recent urban water management planning process.

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## Section 3: Background

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This Section describes the District water service area, and provides background information regarding demographics related to the service area. Although this information is not required by SB 610, it is useful for the reader to help understand the make-up of the District.

### 3.1 Description of Service Area [Section 10631(a)]

The District provides potable water service to a portion of El Dorado County, which is located northeast of the City of Sacramento on the western slopes of the Sierra Nevada mountain range. The service area is generally bounded by the South Fork American River to the north (with the exception of the Swansboro community) and the North Fork Cosumnes River to the south. Figure 2 of the EIR details the District service area and regions.

Water sources are primarily in the higher elevations. Due to the District's geography, topography, and infrastructure configuration, some water supplies are limited to certain areas of the District. For planning purposes, the District has divided its service area based on topography and points of diversion into two service regions; El Dorado Hills (lower elevations) and Western/Eastern (higher elevations). The District has the ability to convey water supplies by gravity from the Western/Eastern region to the El Dorado Hills region; however, infrastructure constraints limit the ability to use El Dorado Hills supplies (from Folsom Reservoir) to serve the Western/Eastern region.

Folsom Reservoir supplies most of the water to the El Dorado Hills region. However, the District also typically conveys water from the Western/Eastern region on a seasonal basis to reduce operating costs. The Rancheria is located approximately in the center of the Western region.

Due to the District's integrated operation of its water delivery system, this WSA must consider the water sources and demands within the entire contiguous District in order to properly assess the available water supply.

### 3.2 Local Climate [Section 10631(a)]

The District service area is located in a region of varying climate, typically dry in the summer months and wet with some snow in the late fall, winter, and early spring months. The region generally has mild weather, and does not experience extreme winter or summer temperatures. Table 1 shows a summary of climate data including the average temperature, precipitation, snowfall and evapotranspiration (ETo) of the service area. The District service area extends easterly to Pollock Pines, which has regular snowfall; however, the Rancheria area rarely has snowfall.

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Table 1: Climate Data

	Average Max. Temperature <sup>(1)</sup> (°F)	Average Min. Temperature <sup>(1)</sup> (°F)	Average Total Precipitation <sup>(1)</sup> (in.)	Average Total Snowfall <sup>(1)</sup> (in.)	Average Snow Depth <sup>(1)</sup> (in.)	Standard average ETo <sup>(2)</sup> (in.)
Jan	53.4	32.6	6.92	1.2	0	1.41
Feb	56.9	35.0	6.65	0.3	0	1.88
Mar	60.5	37.6	5.76	0.4	0	2.99
Apr	66.3	40.5	3.19	0.3	0	4.47
May	74.8	46.3	1.51	0	0	5.91
Jun	83.9	51.9	0.44	0	0	7.46
Jul	92.7	57.2	0.07	0	0	9.00
Aug	91.4	56.2	0.09	0	0	8.21
Sep	85.7	52.1	0.54	0	0	6.23
Oct	74.8	45.0	2.13	0	0	4.19
Nov	61.3	37.4	4.40	0	0	1.84
Dec	53.8	33.1	6.47	0.4	0	1.37
Annual	71.3	43.8	38.17	2.6	0	54.96

**Notes:**

- (1) Source: Western Regional Climate Center, Placerville, CA (046960), 1/1/1900 to 12/31/2010
- (2) Source: California Irrigation Management Information System, Camino Station 13, 12/1982 to 4/1/2011

3.3 Service Area Population [Section 10631(a)]

The current and projected population served within the District service area is presented in Table 2.

Table 2: Population Served

	2010	2015	2020	2025	2030
Service Area Population	112,100	115,100	122,100	132,000	142,560

**Notes:**

- (1) Source: El Dorado Irrigation District, 2010 Urban Water Management Plan Update

3.4 Current and Projected Water use by Sector [Section 10631 (e)(1)]

Projected water demands are used by water providers to plan for future water needs. Current and projected water deliveries are shown in Table 3 and Table 4. The data provided below is from the 2010 UWMP Update, which states that District records for actual historical water use are as published in the annual Consumption Report, and that the projected demands are taken from the draft Integrated Water Resources Master Plan (IWRMP)

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In accordance with Section 10631, projections are shown in 5-year intervals out 20 years from 2008. Except as specified in Section 2.7 above, water use for the Project is conservatively assumed to not be included in the demand projections in the 2010 UWMP Update, and is added as a separate line item in Table 3. In addition, total Project demands are conservatively assumed to be the maximum allowable amount (per the MOU) of 154 AFY. As discussed in Section 1.3, this amount is somewhat higher than actual recent metered water use by the Rancharia. Note that the Project demand is less than one percent of the District's total water demand.

Table 3: Current and Projected Water Deliveries, AFY

<b>Water Use Sectors</b>	<b>2010</b>	<b>2015</b>	<b>2020</b>	<b>2025</b>	<b>2030</b>
Single Family	14,895	21,725	23,410	29,679	34,505
Multi-Family	1,430	2,086	2,248	2,849	3,313
Commercial/Industrial	2,479	3,616	3,896	4,939	5,743
Landscape	1,073	1,565	1,686	2,138	2,486
Agriculture and Ditches	5,431	7,921	8,536	10,821	12,581
Other Authorized Uses	2,453	5,917	6,049	2,323	2,701
Subtotal	27,761	42,829	45,825	52,750	61,328
Project Demand	154	154	154	154	154
<b>Total Demand</b>	<b>27,915</b>	<b>42,983</b>	<b>45,979</b>	<b>52,904</b>	<b>61,482</b>
Project Percent of Demand <sup>(1)</sup>	0.55%	0.36%	0.33%	0.29%	0.25%

**Notes:**

(1) Percent Demand is the ratio of Rancharia demand to District Demand Total x 100%.

Table 4: Total Water Use, AFY

<b>Water Use</b>	<b>2010</b>	<b>2015</b>	<b>2020</b>	<b>2025</b>	<b>2030</b>
<b>User Demand Total</b>	27,915	42,983	45,979	52,904	61,482
<b>Sales to Other Water Agencies</b>	1,155	1,200	1,215	1,275	1,330
<b>Additional Water Uses and Losses</b>	4,764	4,892	5,227	6,003	6,962
<b>Total</b>	<b>33,834</b>	<b>49,075</b>	<b>52,421</b>	<b>60,182</b>	<b>69,774</b>

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## Section 4: Water Supply

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This section evaluates the District's existing and planned water supply sources, and identifies the quantities allocated from each water supply source and its associated water rights. The water supply reliability is evaluated for each source using historical data for single dry years and multiple dry years.

### 4.1 Wholesale Water Supply [Section 10631(k)]

The District currently purchases, and expects to continue to purchase Folsom Reservoir water via a United States Bureau of Reclamation (USBR) Water Service Contract. In the future, the District expects to purchase water wholesale from the El Dorado County Water Agency (EDCWA), which is pursuing a USBR Water Service Contract under Public Law 101-514.

### 4.2 Groundwater Supply [Section 10631(b)]

The District does not currently use groundwater as a supply source, and has no plans to pursue groundwater as a supply source.

### 4.3 Summary of Water Supply Sources (Sections 10910(d)(1) and (d)(2)(A))

The District relies solely on surface water to meet water demands; from the 2010 UWMP Update:

*"The District's potable water system is composed of a main contiguous system which serves over 95% of its customers, and two satellite systems. The three principle diversion points for delivering into the main system are: District owned and operated Sly Park Dam and Jenkinson Lake; the District owned and operated El Dorado Hydroelectric FERC Project 184 (Project 184) at Forebay Reservoir; and Folsom Reservoir via a United States Bureau of Reclamation (USBR) Water Service Contract, a Warren Act Contract for rediverted District ditch and Weber Reservoir water supplies, and State water right permit 21112. The two satellite diversions include potable water deliveries to Outingdale by diverting water from the Middle Fork of the Cosumnes River and Strawberry by diverting water from the upper South Fork American River. The District also diverts water into the Crawford Ditch from the North Fork of the Cosumnes River as a raw water source. Aside from the USBR Contract, the District does not currently purchase water from any wholesale supplier. In the future, the District expects to purchase water wholesale from the El Dorado County Water Agency (EDCWA), which is pursuing a USBR Contract under Public Law 101-514."*

These water sources are described in detail in the 2010 UWMP Update and listed in Table 5. Copies of the water rights, permits, statements, and water supply contracts are available upon request from the District.



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Table 5: Summary of Water Supply Rights, Contracts, and Entitlements

Source No.	Water Source	Water Supply Area	Facility Name or Location	Contract / Agreement or Appropriator	Water Right Application Number	Water Right Permit Number	Water Right License Number	Entitlement (AFY)	
								Annual Supply (Maximum)	Firm Yield <sup>(1)</sup>
1	Folsom Lake	El Dorado Hills Cameron Park	EDH Raw Water PS	USBR EID Contract 14-06-200- 1375A	13370 13371	11315 11316	USBR	7,550	5,660
1	Folsom Lake	El Dorado Hills Cameron Park	Weber Dam EDH Raw Water PS	USBR EID Contract 06-WC-20-3315	Pre-1914 1692	1053	2184	4,560	3,000
2	Jenkinson Reservoir	Contiguous District	Jenkinson Lake Sly Park Dam	EID	5645A 2270	12258 2631	11835 11836	33,400	20,920
2	Camp Creek	Contiguous District	Jenkinson Lake	EID	Pre-1914	N/A	N/A	Included above	Included in 20,920 above
3	South Fork American River at Kyburz and Project 184 Reservoirs	Contiguous District	El Dorado Forebay Diversion to EID Main Ditch	EID	Pre-1914	N/A	N/A	15,080	15,080
4	North Fork Consumes River	Somerset	North Fork Crawford Ditch Camp Creek Segment	EID	Pre-1914	N/A	N/A	5,000	N/A
4	Clear Creek	Somerset	Crawford Ditch Clear Creek Segment	EID	Pre-1914	N/A	N/A	5,000	N/A
4	Squaw Hollow Creek	Diamond Springs	East Diamond Ditch	EID	Pre-1914	N/A	N/A	N/A	N/A
5	Middle Fork Cosumnes River	Outingdale	Outingdale Subdivision	EID	7478	4071	N/A	104	N/A
6	South Fork American River	Strawberry	Strawberry Subdivision	EID	Pre-1914	N/A	N/A	50	Included in 15,080 above
7	Recycled Water	El Dorado Hills Cameron Park	El Dorado Hills and Deer Creek Reclamation Plants	EID	N/A	N/A	N/A	Plant ADWF	Plant ADWF
8	Folsom Lake	Contiguous District	Project 184	EID	5645B	21112	N/A	17,000	17,000
13	Bass Lake	El Dorado Hills Cameron Park	Bass Lake	EID	Pre-1914	N/A	N/A	60	60

Notes:

(1) Sources 4 and 5 are raw water supplies and do not supply the District's potable water system.

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As discussed in the 2010 UWMP Update, several factors influence the District water availability, including hydrology, infrastructure constraints (affecting only El Dorado Hills deliveries), use history, and seasonal diversion and storage policies. The District establishes its firm yield through computer modeling. The OASIS Model is a computer software package developed by HydroLogics, Inc. to model hydrologic conditions in conjunction with certain input parameters. The OASIS Model determines the firm yield of the integrated system for the District and consists of the following sources, restricted by contractual commitments and supply: 7,550 AFY from USBR EID Contract 14-06-200-1375A; 15,080 AFY from El Dorado Forebay; 20,920 AFY from Jenkinson Lake; 17,000 AFY from Project 184 (Permit 21112), and 4,560 AF from USBR EID Contract 06-WC-20-3315. During a dry or critically dry year, the annual supply would be reduced pursuant to Board Policy 5010, and would include a 25% cutback to 5,660 AFY for the former USBR EID Contract and a reduced supply from the latter USBR EID Contract of 3,000 AFY.

Firm yield is defined as the annual demand that the integrated supply system can meet 95% of the time while incurring shortages of no more than 20% annually in the remaining 5% of the time. The firm yield for each current water source is shown in Table 5. The District's projected normal-year water supply is shown in Table 6. Normal supplies are equal to the annual supply maximum with the exception of Jenkinson Lake. The average annual use from Jenkinson Lake is approximately 23,000 AFY, though the District's annual water right is for 33,400 AFY of total beneficial use. Under average flow conditions, Jenkinson Lake is operated to maintain 14,000 to 18,000 AFY of carryover storage. Jenkinson Lake contributes 20,920 AFY to the District's system firm yield.

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Table 6: Water Supply in a Normal Year, actual and projected, AFY

Water Supply Sources		2010	2015	2020	2025	2030
Water Purchased from USBR	Folsom Reservoir	7,550	7,550	7,550	7,550	7,550
Supplier-Produced Surface Water	Jenkinson Lake	23,000	23,000	23,000	23,000	23,000
Supplier-Produced Surface Water	El Dorado Forebay	15,080	15,080	15,080	15,080	15,080
Water Purchased from EDCWA	Folsom Reservoir - PL 101-514 (Fazio)	0	7,500	7,500	7,500	7,500
Supplier-Produced Surface Water	Folsom Reservoir - Warren Act Contract	4,560	4,560	4,560	4,560	4,560
Supplier-Produced Surface Water	Project 184 - Permit 21112	17,000	17,000	17,000	17,000	17,000
Supplier-Produced Surface Water	SMUD-El Dorado Agreement	0	0	30,000	30,000	40,000
Recycled Water	El Dorado Hills and Deer Creek WWTPs	3,084	4,356	5,878	7,730	7,730
Supplier-Produced Groundwater	None	0	0	0	0	0
Transfers In	None	0	0	0	0	0
Exchanges In	None	0	0	0	0	0
Desalinated Water	None	0	0	0	0	0
<b>Total</b>		<b>70,274</b>	<b>79,046</b>	<b>110,568</b>	<b>112,420</b>	<b>122,420</b>

**Notes:**

- (1) Source: El Dorado Irrigation District, 2010 Urban Water Management Plan Update

#### 4.4 Future Water Supply Sources

Table 6 includes two planned future water supply sources: Folsom Reservoir – PL101-514 (Fazio) and SMUD-El Dorado Agreement. These sources are included in the 2010 UWMP Update water supply projections, and are discussed in the following subsections.

##### 4.4.1 Public Law 101-514 Supply

Public Law 101-514 legislatively mandated the execution of a Water Supply Contract between USBR and EDCWA for 15,000 AFY of water from Folsom Reservoir. The District expects to receive at least 7,500 AFY of this total through execution of a sub-contract with the EDCWA. This allocation would be subject to the USBR Shortage Policy for Municipal and Industrial Contractors of maximum dry year reductions of 25%.

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4.4.2 SMUD-EI Dorado Agreement

This agreement allows for 30,000 acre-feet of annual water storage in SMUD reservoirs under normal year conditions through 2025 and 40,000 acre-feet thereafter; with an additional 15,000 acre-feet available for carryover purposes. After a first dry year in which annual storage supplies would be exhausted, the District projects using 5,000 acre-feet of the 15,000 acre-foot total of carryover supplies in each subsequent year of a multiple-dry year sequence.

4.5 Water Rights Evaluation [Section 10910(e)]

Other than the future supplies discussed in Section 4.4, the Project will not rely on water supplies not yet used. Copies of the water rights, permits, statements, and water supply contracts are available upon request from the District.

4.6 Other Water Evaluation Criteria [Section 10631(c)]

The purpose of this subsection is to identify any aspects that could potentially reduce the reliable water supply.

4.6.1 Water Quality

In accordance with California Department of Health Services regulations, annually the District prepares a Consumer Confidence Report which includes the water quality testing results for the previous year. That report is provided to all District customers and is published on the District website. A copy of the most current report is included in the 2010 UWMP Update. At this time, no known or potential water quality issues have been identified by the District that could impact waters supplies, either by natural or human-induced activities.

4.6.2 Infrastructure Constraints

The MOU will not increase the maximum water flow (95 gpm) to the Rancheria, which has its own storage, pumping and distribution system. The District does not deliver high flows to the Rancheria for peak demand periods or for fire suppression needs; therefore, the current District infrastructure is sufficient and is not impacted by the increase in annual flow to the Rancheria.

4.6.3 Vulnerability to Shortage

Various factors that can cause water supply shortages are change in climate, earthquakes, chemical spills, dam failures, canal breaks, waterline ruptures, and energy outages at treatment and pumping facilities. The actions required to respond to both near-term and long-term changing water supply conditions are outlined in the 2010 UWMP Update, and include the District's adopted 2006 Drought Preparedness Plan and 2009 Drought Management Plan, which are multiple-stage demand reduction plans. Drought stages are defined by associating water supply conditions and demand reduction targets.

Reliable water supply for a single dry year is projected in Table 7. The single dry year projections are based on the lowest annual runoff for the watershed (base year 1977), as

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directed by California Department of Water Resources' Guidebook to Assist Water Suppliers in Preparation of the 2010 UWMP.

Table 7: Projected Single Dry Year Water Supply, AFY<sup>(1)</sup>

		2015	2020	2025	2030
Supplier-Produced Surface Water	Jenkinson Lake	22,000	22,000	22,000	22,000
Supplier-Produced Surface Water	El Dorado Forebay	15,080	15,080	15,080	15,080
Water Purchased from EDCWA	Folsom Reservoir - PL 101-514 (Fazio)	5,625	5,625	5,625	5,625
Wholesale Water	Folsom Reservoir - USBR Contract	5,660	5,660	5,660	5,660
Supplier-Produced Surface Water	Folsom Reservoir - Warren Act Contract	3,000	3,000	3,000	3,000
Supplier-Produced Surface Water	Project 184 - Permit 21112	17,000	17,000	17,000	17,000
Supplier-Produced Surface Water	SMUD-El Dorado Agreement	0	30,000	30,000	40,000
Recycled Water	El Dorado Hills and Deer Creek WWTPs	4,356	5,878	7,730	7,730
Supplier-Produced Groundwater	None	0	0	0	0
Transfers In	None	0	0	0	0
Exchanges In	None	0	0	0	0
Desalinated Water	None	0	0	0	0
<b>Total</b>		<b>72,721</b>	<b>104,243</b>	<b>106,095</b>	<b>116,095</b>
<b>Percent of Normal Year</b>		<b>92%</b>	<b>94%</b>	<b>94%</b>	<b>95%</b>

**Notes:**

(1) Source: El Dorado Irrigation District, 2010 Urban Water Management Plan Update July 2011.

Reliability of existing water supply is shown in Table 8, which details the normal water supply compared to multiple dry years. Note that future water supply sources discussed in Section 4.4 are not included.

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Table 8: Existing Water Supply Reliability, AFY

Water Supply Sources		Normal Water Year Supply	Multiple Dry Water Year Supply		
			Year 1	Year 2	Year 3
Supplier-Produced Surface water	Jenkinson Lake	23,000	22,000	17,000	15,500
Supplier-Produced Surface water	El Dorado Forebay	15,080	15,080	15,080	15,080
Wholesale Water	Folsom Reservoir - USBR Contract	7,550	5,660	5,660	5,660
Supplier-Produced Surface water	Folsom Reservoir - Warren Act Contract	4,560	3,000	3,000	3,000
Supplier-Produced Surface water	Project 184 - Permit 21112	17,000	17,000	17,000	17,000
Recycled Water	El Dorado Hills and Deer Creek WWTPs	3,084	3,084	3,084	3,084
Supplier-Produced Groundwater	None	0	0	0	0
Transfers In	None	0	0	0	0
Exchanges In	None	0	0	0	0
Desalinated Water	None	0	0	0	0
Total		70,274	65,824	60,824	59,324
Percent of Normal Year			94%	87%	84%

**Notes:**

- (1) Source: El Dorado Irrigation District, 2010 Urban Water Management Plan Update July 2011
- (2) Single dry year is based on data from 1976-1977.
- (3) Multiple dry year is based on data from 1987-1992.

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Section 5: Water Supply Assessment

This Section evaluates the District’s water supply and demands. The assessment includes comparison of supply and demand for normal, single dry and multiple dry years.

5.1 Supply and Demand Comparison [Section 10910(c)(3)]

Projected water supply and demands for normal years are compared in Table 9. Supplies are those shown in Table 6. Demands are those shown in Table 4, which include the Project demand of 154 AFY.

Table 9: Normal Year Water Supply and Demand Comparison, AFY

	2015	2020	2025	2030
Supply Totals	79,046	110,568	112,420	112,420
Demand Totals	49,075	52,421	60,182	69,774
Difference	29,971	58,147	52,238	42,646
Difference as % of Supply	38%	53%	46%	38%
Difference as % of Demand	61%	111%	87%	61%

Projected water supply and demands for a single dry year are compared in Table 10. Reliable supplies are those shown in Table 7. Demands are those shown in Table 4, which include the Project demand of 154 AFY.

Table 10: Single Dry Year Water Supply and Demand Comparison, AFY

	2015	2020	2025	2030
Supply Totals	72,721	104,243	106,095	116,095
Demand Totals	49,075	52,421	60,182	69,774
Difference	23,646	51,822	45,913	46,321
Difference as % of Supply	33%	50%	43%	40%
Difference as % of Demand	48%	99%	76%	66%

Projected water supply and demands for multiple dry years are compared in Table 11. These multiple dry years would occur after a single dry year (shown in Table 10), and therefore represent the final three years of a four-year drought period. Reliable existing supplies are those shown in Table 8; reliable future supplies are as discussed in Section 4.4. Demands are those shown in Table 4, which include the Project demand of 154 AFY.

Table 11 provides the multiple-dry year water supply and demand for a three-year period and is intended to provide the most conservative analytical approach. It is assumed that no additional water conservation efforts are in place and overall demands are not reduced to meet the 20% reductions by 2020. In addition to assuming no water conservation, no mandatory rationing is assumed to be implemented in any of the dry years.

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Table 11: Multiple Dry Year Water Supply and Demand Comparison, AFY

	2015	2020	2025	2030	
Year 1	Supply Totals	71,449	86,449	86,449	86,449
	Demand Totals	49,075	52,421	60,182	69,774
	Difference	25,521	53,697	47,788	38,196
	Difference as % of Supply	34%	51%	44%	35%
	Difference as % of Demand	52%	102%	79%	55%
Year 2	Supply Totals	66,449	76,449	76,449	76,449
	Demand Totals	49,075	52,421	60,182	69,774
	Difference	17,374	24,028	16,267	6,675
	Difference as % of Supply	26%	31%	21%	9%
	Difference as % of Demand	35%	46%	27%	10%
Year 3	Supply Totals	64,949	69,949	69,949	69,949
	Demand Totals	49,075	52,421	60,182	69,774
	Difference	15,874	17,528	9,767	175
	Difference as % of Supply	24%	25%	14%	0.3%
	Difference as % of Demand	32%	33%	16%	0.3%

Note: Supply totals from 2010 UWMP Update, Table 5-12. Demand totals from 2010 UWMP Update, Table 5-12, plus Project demand of 154 AFY.

## 5.2 Water Supply Assessment [Section 10910(c)(3)]

Based on analyses provided in this WSA, the projected District water supplies available during normal, single dry and multiple dry years will meet the projected water demands for existing and planned future uses, including those associated with the Project, during the 20-year projection period. Normal demand projections are used in all of the assessments. As noted in Section 4.6.3 and discussed in detail in the 2010 UWMP Update, the District has the capability to respond to both near-term and long-term changing water supply conditions, including implementation of multiple-stage demand reduction plans. Although implementation of demand reduction plans would reduce total demands, even if they did not, projected supplies are sufficient to meet total demands.



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References

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California Department of Water Resources, *Guidebook for Implementation of Senate Bill 610 and Senate Bill 221 of 2001*, 8 October 2003.  
[http://www.water.ca.gov/pubs/use/sb\\_610\\_sb\\_221\\_guidebook/guidebook.pdf](http://www.water.ca.gov/pubs/use/sb_610_sb_221_guidebook/guidebook.pdf)

El Dorado Irrigation District, *2010 Urban Water Management Plan Update*, July 2011.

El Dorado Irrigation District, *Environmental Impact Report El Dorado Irrigation District Memorandum of Understanding for Water Service to the Shingle Springs Rancheria*, August? 2011.

DRAFT



RESOLUTION NO. 135-2012

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO  
*Shingle Springs Rancheria Reorganization to the El Dorado Irrigation District*  
*LAFCO Project No. 2012-04*

WHEREAS, request has been made to the Board of Supervisors of the County of El Dorado for negotiations with respect to property tax revenue in accordance with Section 99 and 99.01 of the Revenue and Taxation Code; and

WHEREAS, this request related to the detachment and concurrent reannexation of one parcel, APN 319-100-37 (159.25 acres) to the El Dorado Irrigation District, namely LAFCO Project Number 2012-04; and

WHEREAS, negotiations for a redistribution of property tax increment have been concluded, and the El Dorado Irrigation District has adopted a resolution accepting the reorganization and property tax increment distribution plan; and

WHEREAS, the parties have reconsidered the initial distribution and agree that an amendment is necessary to redistribute property tax increment;

NOW, THEREFORE, BE IT RESOLVED by the El Dorado County Board of Supervisors that the property tax increment with respect to parcel 319-100-37 to be detached and concurrently reannexed to the El Dorado Irrigation District will be distributed as shown on Exhibit B attached hereto.

BE IT FURTHER RESOLVED that El Dorado County authorizes an exemption from the requirement for LAFCO to hold an additional information hearing 60 days before the regular hearing to consider the proposed annexation. For purposes of Government Code Section 56857(e), the County supports the Shingle Springs Rancheria Reorganization to the El Dorado Irrigation District; LAFCO Project No. 2012-04.

BE IT FURTHER RESOLVED that this resolution be effective at the time that affected agencies adopt a resolution adopting the property tax increment distribution as shown on Exhibit B.

BE IT FURTHER RESOLVED that the Clerk to the Board of Supervisors is hereby directed to transmit notice of this resolution to the affected agencies and the El Dorado County Local Agency Formation Commission.



Resolution 135-2012  
Page 2 of 2

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held the 25th day of September, 2012, by the following vote of said Board:

Attest:  
Terri Daly  
Acting Clerk of the Board of Supervisors

By: Marcie MacFarland  
Deputy Clerk

Ayes: Sweeney, Santiago, Knight, Nutting, Briggs  
Noes: None  
Absent: None

[Signature]  
Chairman, Board of Supervisors  
John R. Knight



**Property Tax Distribution  
Future Increment  
EXHIBIT B**

LAFCO Project #: 2012-04  
 Project Name: Shingle Springs Rancheria Reorganization to the El Dorado Irrigation District  
 Annexation Per R&T Code Section: 99.01  
 Existing Tax Rate Area # (TRA): 078-100  
 Net Assessed Value Per Assessor: \$0  
 H/O Exemption Assessed Value: \$0  
 Total Assessed Value Subject to AB-8: \$0  
 Estimated 1% Property Tax Revenue: \$0

County Agency	SBE District Code	Estimated Portion of Current Tax Revenue	Current Share of Tax Levy in Existing TRA	Possible Exchange of Increment	Future Increment	
Agency	Number	Number	(note 1)	(note 1)		
County General Fund	00001	n/a	\$0	28.2365%	-	28.2365%
County Capital Outlay Fund	00007	n/a	\$0	0.5856%	-	0.5856%
Road District Tax	00011	n/a	\$0	2.8335%	-	2.8335%
County Water Agency	30045	207	\$0	0.9246%	-	0.9246%
Diamond Springs/El Dorado Fire	30050	054	\$0	21.7678%	-	21.7678%
El Dorado Irrigation District	80011	071	\$0	6.3032%	-	6.3032%
CSA#7	30281	122	\$0	1.9021%	-	1.9021%
CSA#9	30291	123	\$0			0.0000%
CSA#9, Mother Lode Recreation	30292	124	\$0			0.0000%
CSA#10	30283	191	\$0			0.0000%
CSA#10, Zone H	n/a	229	\$0			0.0000%
Total Local Agencies:			\$0	<u>62.5533%</u>		<u>62.5533%</u>
Mother Lode Elementary	20130	013	\$0	17.9733%		
El Dorado High	20290	032	\$0	13.1296%		
County School Services	20370	n/a	\$0	1.6522%		
Los Rios Jt Community College	20320	046	\$0	<u>4.6916%</u>		
Total School Agencies:			\$0	<u>37.4467%</u>		
Grand Total:			\$0	<u>100.0000%</u>		

Note 1: Revenue estimates shown are PRE: SDAF, ERAF I, ERAF II, ERAF III, VLF Swap, and/or Triple Flip.



**RESOLUTION NUMBER L-2012-12**

Shingle Springs Rancheria Reorganization to the  
El Dorado Irrigation District (EID)  
LAFCO Project No. 2012-04

**WHEREAS**, on July 23, 2012, the El Dorado Irrigation District (“EID”) adopted District Resolution 2012-015 (“petition”) requesting the concurrent detachment and re-annexation of APN 319-100-37, commonly known as the Shingle Springs Rancheria; and

**WHEREAS**, on July 27, 2012, EID submitted the reorganization petition to LAFCO; and

**WHEREAS**, the reorganization proposal (hereinafter referred to as the “Reorganization”) was assigned LAFCO Project No. 2012-04 and is referred to as the “Shingle Springs Rancheria Reorganization to the El Dorado Irrigation District”; and

**WHEREAS**, the Reorganization consists of approximately 159.25 acres, shown in “Exhibit A” (hereinafter referred to as the “subject territory”); and

**WHEREAS**, the subject territory is owned by the Federal Department of the Interior’s Bureau of Indian Affairs and is land held in trust for the Shingle Springs Band of Miwok Indians; and

**WHEREAS**, the petition requests the Reorganization of the subject territory within the EID service area to provide services to the affected territory reflecting current land use and development conditions, consistent with the 2008 MOU between EID and the Shingle Springs Band of Miwok Indians; and

**WHEREAS**, the petition is in conformance with Government Code §56650 et seq.; and

**WHEREAS**, Revenue and Taxation Code §99 requires an agreement for the exchange of property tax revenues in the event of a jurisdictional change of local agencies; and

**WHEREAS**, property tax exchange negotiations were completed and approved by EID on September 11, 2012, and by the County of El Dorado (“the County”) on September 25, 2012; and

**WHEREAS**, on August 10, 2012, Chairman Nicholas Fonseca, on behalf of the Shingle Springs Band of Miwok Indians’ Tribal Council, submitted a letter in support of the Reorganization; and

**WHEREAS**, on August 21, 2012, Carmen Facio, Acting Regional Director of the Bureau of Indian Affairs Pacific Regional Office, which is the legal landowner of the subject territory, submitted a letter in support of the Reorganization; and

**WHEREAS**, pursuant to Government Code §56857(a) the informational hearing proceedings were not required; and

**WHEREAS**, EID, as lead agency pursuant to the California Environmental Quality Act ("CEQA", Pub. Resources Code, §21000 et seq.) prepared a draft environmental impact report ("Draft EIR") analyzing the potential environmental impacts of the proposed Reorganization; and

**WHEREAS**, the Draft EIR was prepared and circulated pursuant to CEQA and the State CEQA Guidelines for public review and comment; and

**WHEREAS**, following the public review and comment periods, a final environmental impact report ("Final EIR") was prepared incorporating and responding to the comments received on the Draft EIR, and EID responded to all of the significant environmental issues raised during the environmental review process; and

**WHEREAS**, EID, by Resolution No. 2012-007, certified the Final EIR and adopted environmental findings; and

**WHEREAS**, based on the Initial Study and the analysis contained in the Final EIR, all impacts of the proposed Reorganization were found to be less than significant; and

**WHEREAS**, the El Dorado Local Agency Formation Commission ("LAFCO") has reviewed said EIR, a copy of which is filed at the LAFCO office; and

**WHEREAS**, the Executive Officer has examined the petition, certified that it is adequate and has accepted the petition for filing on November 6, 2012; and

**WHEREAS**, the Executive Officer set a public hearing for December 5, 2012 for consideration of the petition and the EIR and caused Notice thereof to be posted, published and mailed at the times and in the manner required by law at least twenty-one (21) days in advance of that date; and

**WHEREAS**, said Notice stated that the petition and the EIR would be considered by this Commission at the hearing; and

**WHEREAS**, the Executive Officer, pursuant to Government Code §56665, has reviewed this petition and prepared and distributed a report, including recommendations, and has furnished a copy of this report to each person entitled to a copy at least five (5) days prior to the December 5, 2012 meeting during which the petition was considered; and

**WHEREAS**, on December 5, 2012, the matter came on regularly for hearing before this Commission, at the time and place specified in the Notice of the Public Hearing; and

**WHEREAS**, at said hearing, the petition, EIR, and the Executive Officer's Report and Recommendations were reviewed and considered; and

**WHEREAS**, an opportunity was given to all interested persons, organizations, and agencies to present oral or written protests, objections, and any other information concerning the proposal and all related matters; and

**WHEREAS**, this Commission has received, heard, discussed and considered all oral and written testimony related to the petition, including, but not limited to, protests and objections, the Executive Officer's report and recommendations, the EIR and determinations, plans for providing service, spheres of influence, applicable General and Specific Plans, each of the policies, priorities and functions set forth in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, including those set forth in Government Code §§56377, 56668 and 56668.3, LAFCO's Policies and Guidelines and all other materials presented as prescribed by law.

**NOW, THEREFORE, IT IS HEREBY RESOLVED, DETERMINED, ORDERED AND FOUND** by the El Dorado Local Agency Formation Commission as follows:

1. Each of the foregoing recitals is true and correct.
2. This resolution making determinations is made pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, California Government Code §56000 et seq.
3. The following agencies and districts were notified concerning this petition: Shingle Springs Band of Miwok Indians; Bureau of Indian Affairs, Pacific Regional Office, Central California Division; Shingle Springs Gaming Authority; El Dorado County Fire Protection District; Diamond Springs-El Dorado Fire Protection District; El Dorado County CSAs 7, 9, 9 Mother Lode Recreation Tax, 10 and 10 Zone H; El Dorado County Emergency Services Authority; El Dorado Irrigation District; El Dorado County Water Agency; El Dorado County Resource Conservation District; El Dorado County Department of Agriculture; El Dorado County Chief Administrative Office; El Dorado County Office of Education; Mother Lode Union School District; El Dorado Union High School District; Los Rios Community College District; El Dorado County Planning Department; El Dorado County Surveyor's Office; El Dorado County Elections Department; El Dorado County Sheriff's Department; and the Farm Bureau.
4. There are no registered voters in the subject territory; therefore, the subject territory is considered uninhabited per Government Code §56046.

5. The United States Department of the Interior, Bureau of Indian Affairs (BIA) is owner of 100% of the assessed value of the land within the subject territory, held in trust for the Shingle Springs Band of Miwok Indians.
6. The BIA has given written consent to the reorganization.
7. EID, as the subject agency, has not requested in writing or otherwise that LAFCO hold protest proceedings on this petition.
8. The Conducting Authority proceedings are hereby waived in accordance with Government Code §56663(c).
9. The subject territory is sovereign land, held in trust for the Shingle Springs Band of Miwok Indians, which is not subject to zoning and land use designations of the 2004 County General Plan.
10. The subject territory is currently developed land with approximately 40 homes, a library, church, tribal center, community center, a residential fire department and Red Hawk Casino. The 278,000 square foot casino facility has 2,000 slot machines, 75 table games, six restaurants, four bars, and 3,000 lighted and covered parking spaces.
11. Prior to 1987, the Shingle Springs Band of Miwok Indians (Tribe), at the time operating under the name of the Sacramento Verona Band of Homeless Indians, acquired water for the Rancheria residents from EID at out-of-district rates.
12. In 1987, the Tribe and EID entered into an Annexation Agreement to bring the Rancheria into EID's service area, subject to approval by LAFCO.
13. In 1988, the Tribe initiated an annexation petition with LAFCO, which LAFCO subsequently approved, but conditioned its approval by restricting the amount of water EID could provide to the Rancheria for residential and accessory uses only, and limited the amount to what was necessary to serve a community of no more than 40 residential lots.
14. LAFCO and EID have subsequently concluded that the water use restrictions imposed by LAFCO in 1988 are no longer necessary or appropriate, that there are legitimate questions about the validity of the 1988 annexation, and that the proper procedure for removing the restrictions and authorizing EID to serve the Rancheria would be the concurrent detachment and annexation comprising the Reorganization, which will have the effect of vacating the entire 1988 annexation and its conditions.
15. The subject territory consists of a single tax rate area and is currently within TRA 078-100.



16. APN 319-100-37 is an inactive, non-taxable parcel with an assessed value of \$0.00.
17. The subject territory is within the EID sphere of influence.
18. The Reorganization will result in a decrease in water supply available for the buildout of regional housing needs determined by the Sacramento Area Council of Governments. The reorganization will not, however, have a significant foreseeable effect on the ability of the County to adequately accommodate its fair share of those needs.
19. Upon completion of the approval proceedings, EID shall provide water service to the subject territory, at levels consistent with the 2008 MOU or any subsequent legal and binding agreement between EID and the Tribe.
20. EID has planned for the provision of water to the subject territory, and the MOU for services between the Tribe and EID will presumably cover the cost of services to the Rancheria. According to the MOU, the Tribe purchases water at the regular District Retail Rate, which may be amended as necessary.
21. The petition meets the intent, policies, and priorities of this Commission, and the laws and policies within its jurisdiction and authority, including but not limited to the El Dorado LAFCO Policies and Guidelines.
22. This Commission has reviewed and considered the information contained in the EIR, Initial Study and administrative record for the petition.
23. This Commission finds that the EIR and Initial Study contain a complete, accurate and objective reporting of the environmental impacts associated with the reorganization and reflect the independent judgment of the Commission.
24. This Commission further finds that the EIR and Initial Study have been completed in compliance with CEQA, the State CEQA Guidelines and the Commission's Local CEQA Guidelines as detailed in the El Dorado LAFCO Policies and Guidelines.
25. A full and fair public hearing was held on the EIR for the reorganization.
26. This Commission has considered all comments received thereon in response to the public circulation of the EIR, and said EIR is hereby approved and adopted as the EIR for the petition.
27. The EIR addressed, among other things, impacts to agricultural resources, hydrology and water quality, land use and planning, population and housing, public services, transportation and traffic, utilities and service systems, and recreation.

28. EID, in accordance with the California Environmental Quality Act (CEQA) ultimately determined that all impacts of the proposed Reorganization were found to be less than significant.
29. This Commission hereby finds on the basis of its review of the Initial Study and comments on the EIR, and all other written and oral evidence presented to the Commission, there is no substantial evidence in the administrative record to support a fair argument that the proposed change of organization may result in a significant impact on the environment. This Commission further finds that the reorganization will not cause any significant environmental impacts.
30. EID's EIR for the Shingle Springs Reorganization to EID is hereby accepted as the appropriate environmental document for this petition in accordance with CEQA.
31. The County Surveyor has agreed that the submitted legal description and maps are mathematically correct.
32. The Reorganization will not result in negative impacts to the cost and adequacy of services otherwise provided in the area and it is in the best interests of the affected area and the total organization of local government agencies.
33. The area proposed for Reorganization represents an orderly, logical and justifiable reorganization of the EID boundaries.
34. The proposal is assigned the following short form designation:

Shingle Springs Rancheria Reorganization to the El Dorado Irrigation District  
LAFCO Project No. 2012-04
35. The Shingle Springs Rancheria Reorganization to the El Dorado Irrigation District is hereby approved, subject to the following conditions:
  - (a) The subject territory shall be liable for any authorized or existing taxes, fees, service charges, assessments and any bonded indebtedness of EID.
  - (b) In consideration of the approval of the El Dorado Irrigation District's petition for the Reorganization, the El Dorado Irrigation District shall agree to defend, indemnify, hold harmless and release the El Dorado Local Agency Formation Commission, its agents, officers, attorney and employees from any claim, action or proceeding brought against them or any of them, the purpose of which is to attack, set aside, void, condition, challenge or annul the approval of the Reorganization or adoption of the environmental document which accompanies it. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorney fees, or

expert witness fees that may be asserted by any person or entity, including the applicant, arising out of, related to or in connection with the approval of this application, whether or not there is concurrent passive negligence of the part of the El Dorado Local Agency Formation Commission or its agents, officers, attorney or employees. The El Dorado Irrigation District shall execute an agreement, in a form satisfactory to the Commission's legal counsel, reflecting its obligations under this paragraph.

- (c) The Certificate of Completion shall be issued and recorded subsequent to final payment of all LAFCO, State Board of Equalization and County fees, costs and charges associated with the project and necessary to complete the required filings and transmittals.
  - (d) Proponents shall complete all map and legal description requirements for final recording and filing, including documents required by the State Board of Equalization, within 180 days of December 5, 2012.
  - (e) The Certificate of Completion shall be issued and recorded subsequent to the fixing and establishment of any necessary right of use of water by El Dorado Irrigation District in the subject territory (§56886j). Nothing in this condition shall operate or be interpreted to modify priorities of use, or right of use, to water, or capacity rights in any public improvements or facilities that have been fixed and established by a court or an order of the State Water Resources Control Board.
36. All subsequent proceedings in connection with this Reorganization shall be conducted only in compliance with the approved boundaries and conditions set forth in the attachments and any terms and conditions specified in this resolution.
37. The Executive Officer is hereby authorized and directed to file with the Clerk of the County of El Dorado, a Notice of Determination for the Reorganization, pursuant to Title 14 California Code of Regulations §15075.
38. The effective date shall be the five (5) working days after recordation by the County Recorder of the Executive Officer's Certificate of Completion, which shall be prepared and recorded after the conditions set forth above are met.
39. Upon and after the effective date of said reorganization, the affected territory, all inhabitants within such territory, and all persons entitled to vote by reasons of residing or owning land within the territory:
- (a) Shall be subject to the jurisdiction of EID, hereafter referred to as "the District";

- (b) Shall have the same rights and duties as if the affected territory has been a part of the District upon their original formation;
  - (c) Shall be liable for the payment of any authorized or existing taxes, fees, assessments and any bonded indebtedness of the District, including amounts which shall become due on account of any outstanding or then authorized but thereafter issued obligations of the District;
  - (d) Shall be subject to the collection of all taxes, assessments, service charges, rentals or rates as may be necessary to provide for such services;
  - (e) Shall be subject to all of the rules, regulations and ordinances of the District as now existing or hereafter amended.
50. All interested parties, including without limitation the El Dorado Irrigation District, agree that LAFCO retains in perpetuity the authority to enforce, through legal action or otherwise, all of the terms and conditions of the project approval.
51. The documents and materials which constitute the record of proceedings on which these findings are based are located at 550 Main Street, Suite E, Placerville, CA 95667. The custodian of these records is the Executive Officer.

**PASSED AND ADOPTED** by the El Dorado Local Agency Formation Commission at a regular meeting of said Commission, held December 5, 2012 by the following vote of said Commission.

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

ATTEST:

\_\_\_\_\_  
Interim Clerk to the Commission

\_\_\_\_\_  
Chairperson

L.A.F.C.O. PROJECT NO. 2012-04  
Shingle Springs Rancheria Reorganization Legal Description

All of the tract of land shown and designated on the Record of Survey filed in Book 5 of Record of Surveys, at Page 23, El Dorado County Records, being the northwest quarter of Section 29, Township 10 North, Range 10 East, M.D.M., County of El Dorado, State of California, being more particularly described as follows:


Beginning at the northwest corner of said Section 29; thence from the **Point of Beginning**, the following four (4) consecutive courses and distances:

- Course L1. South 89°51'28" East, along the north line of said Section 29, a distance of 2614.20 feet to the north quarter corner of said Section 29,
- Course L2. leaving said north line, South 02°09'57" West, along the east line of said northwest quarter of Section 29, a distance of 2660.47 feet to the center section corner of said Section 29,
- Course L3. leaving said east line, North 89°52'46" West, along the south line of said northwest quarter of Section 29, a distance of 2602.87 feet to the west quarter corner of said Section 29 and
- Course L4. leaving said south line, North 01°55'17" East, along the west line of said Section 29, a distance of 2661.08 feet to the **Point of Beginning**.

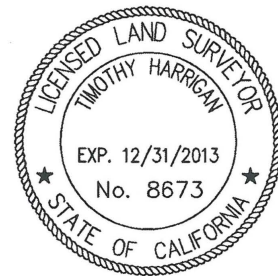
Containing a gross area of 159.25 acres, more or less.

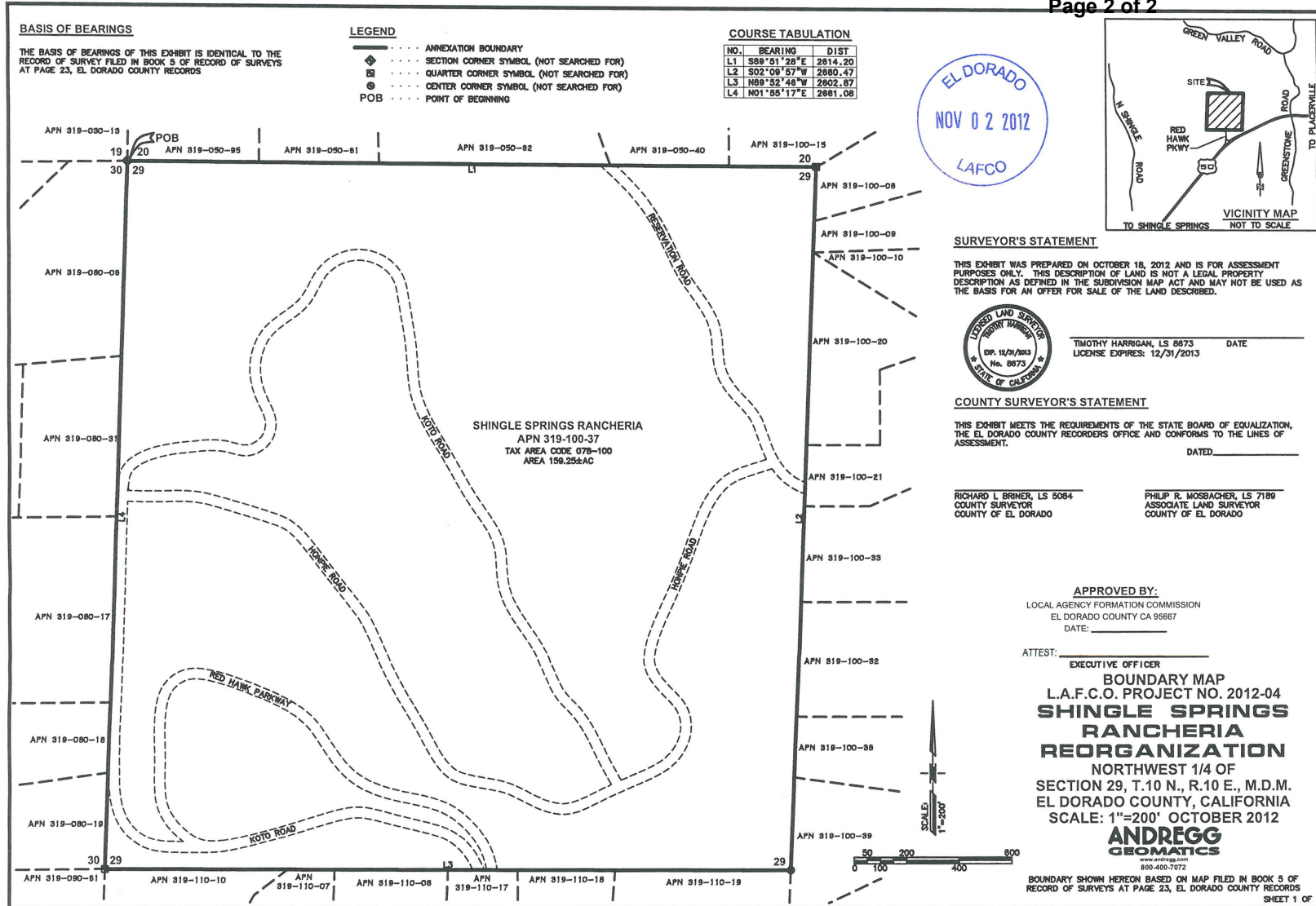
The basis of bearings of this description is identical to the Record of Survey filed in Book 5 of Record of Surveys, at Page 23, El Dorado County Records.

This description is for assessment purposes only. This description of land is not a legal property description as defined in the Subdivision Map Act and may not be used as the basis for an offer for sale of the land described.

  
Timothy Harrigan, LS 8673

10/31/2012  
Dated





## **RESOLUTION NUMBER L-2012-12**

### Shingle Springs Rancheria Reorganization to the El Dorado Irrigation District (EID) LAFCO Project No. 2012-04

**WHEREAS**, on July 23, 2012, the El Dorado Irrigation District (“EID”) adopted District Resolution 2012-015 (“petition”) requesting the concurrent detachment and re-annexation (**hereinafter referred to as the “Reorganization”**) of APN 319-100-37, commonly known as the Shingle Springs Rancheria; and

**WHEREAS**, on July 27, 2012, EID submitted the reorganization petition to LAFCO; and

**WHEREAS**, the reorganization ~~petition proposal (hereinafter referred to as the “Reorganization”)~~ was assigned LAFCO Project No. 2012-04 and is referred to as the “Shingle Springs Rancheria Reorganization to the El Dorado Irrigation District”; and

**WHEREAS**, the Reorganization consists of approximately 159.25 acres, shown in “Exhibit A” (hereinafter referred to as the “subject territory”); and

**WHEREAS**, the subject territory is owned by the Federal Department of the Interior’s Bureau of Indian Affairs and is land held in trust for the Shingle Springs Band of Miwok Indians; and

**WHEREAS**, the petition requests the Reorganization of the subject territory within the EID service area to provide services to the affected territory reflecting current land use and development conditions, consistent with the 2008 MOU between EID and the Shingle Springs Band of Miwok Indians; and

**WHEREAS**, the petition is in conformance with Government Code §56650 et seq.; and

**WHEREAS**, Revenue and Taxation Code §99 requires an agreement for the exchange of property tax revenues in the event of a jurisdictional change of local agencies; and

**WHEREAS**, property tax exchange negotiations were completed and approved by EID on September 11, 2012, and by the County of El Dorado (“the County”) on September 25, 2012; and

**WHEREAS**, on August 10, 2012, Chairman Nicholas Fonseca, on behalf of the Shingle Springs Band of Miwok Indians’ Tribal Council, submitted a letter in support of the Reorganization; and

**WHEREAS**, on August 21, 2012, Carmen Facio, Acting Regional Director of the Bureau of Indian Affairs Pacific Regional Office, which is the legal landowner of the subject territory, submitted a letter in support of the Reorganization; and

**WHEREAS**, pursuant to Government Code §56857(a) the informational hearing proceedings were not required; and

**WHEREAS**, EID, as lead agency pursuant to the California Environmental Quality Act ("CEQA", Pub. Resources Code, §21000 et seq.) prepared a draft environmental impact report ("Draft EIR") analyzing the potential environmental impacts of the proposed Reorganization; and

**WHEREAS**, the Draft EIR was prepared and circulated pursuant to CEQA and the State CEQA Guidelines for public review and comment; and

**WHEREAS**, following the public review and comment periods, a final environmental impact report ("Final EIR") was prepared incorporating and responding to the comments received on the Draft EIR, and EID responded to all of the significant environmental issues raised during the environmental review process; and

**WHEREAS**, EID, by Resolution No. 2012-007, certified the Final EIR and adopted environmental findings; and

**WHEREAS**, based on the Initial Study and the analysis contained in the Final EIR, all impacts of the proposed Reorganization were found to be less than significant; and

**WHEREAS**, the El Dorado Local Agency Formation Commission ("LAFCO") has reviewed said EIR, a copy of which is filed at the LAFCO office; and

**WHEREAS**, the Executive Officer has examined the petition, certified that it is adequate and has accepted the petition for filing on November 6, 2012; and

**WHEREAS**, the Executive Officer set a public hearing for December 5, 2012 for consideration of the petition and the EIR and caused Notice thereof to be posted, published and mailed at the times and in the manner required by law at least twenty-one (21) days in advance of that date; and

**WHEREAS**, said Notice stated that the petition and the EIR would be considered by this Commission at the hearing; and

**WHEREAS**, the Executive Officer, pursuant to Government Code §56665, has reviewed this petition and prepared and distributed a report, including recommendations, and has furnished a copy of this report to each person entitled to a copy at least five (5) days prior to the December 5, 2012 meeting during which the petition was considered; and



**WHEREAS**, on December 5, 2012, the matter came on regularly for hearing before this Commission, at the time and place specified in the Notice of the Public Hearing; and

**WHEREAS**, at said hearing, the petition, EIR, and the Executive Officer's Report and Recommendations were reviewed and considered; and

**WHEREAS**, an opportunity was given to all interested persons, organizations, and agencies to present oral or written protests, objections, and any other information concerning the proposal and all related matters; and

**WHEREAS**, this Commission has received, heard, discussed and considered all oral and written testimony related to the petition, including, but not limited to, protests and objections, the Executive Officer's report and recommendations, the EIR and determinations, plans for providing service, spheres of influence, applicable General and Specific Plans, each of the policies, priorities and functions set forth in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, including those set forth in Government Code §§56377, 56668 and 56668.3, LAFCO's Policies and Guidelines and all other materials presented as prescribed by law.

**NOW, THEREFORE, IT IS HEREBY RESOLVED, DETERMINED, ORDERED AND FOUND** by the El Dorado Local Agency Formation Commission as follows:

1. Each of the foregoing recitals is true and correct.
2. This resolution making determinations is made pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, California Government Code §56000 et seq.
3. The following agencies and districts were notified concerning this petition: Shingle Springs Band of Miwok Indians; Bureau of Indian Affairs, Pacific Regional Office, Central California Division; Shingle Springs Gaming Authority; El Dorado County Fire Protection District; Diamond Springs-El Dorado Fire Protection District; El Dorado County CSAs 7, 9, 9 Mother Lode Recreation Tax, 10 and 10 Zone H; El Dorado County Emergency Services Authority; El Dorado Irrigation District; El Dorado County Water Agency; El Dorado County Resource Conservation District; El Dorado County Department of Agriculture; El Dorado County Chief Administrative Office; El Dorado County Office of Education; Mother Lode Union School District; El Dorado Union High School District; Los Rios Community College District; El Dorado County Planning Department; El Dorado County Surveyor's Office; El Dorado County Elections Department; El Dorado County Sheriff's Department; and the Farm Bureau.
4. There are no registered voters in the subject territory; therefore, the subject territory is considered uninhabited per Government Code §56046.

5. The United States Department of the Interior, Bureau of Indian Affairs (BIA) is owner of 100% of the assessed value of the land within the subject territory, held in trust for the Shingle Springs Band of Miwok Indians.
6. The BIA has given written consent to the reorganization.
7. EID, as the subject agency, has not requested in writing or otherwise that LAFCO hold protest proceedings on this petition.
8. The Conducting Authority proceedings are hereby waived in accordance with Government Code §56663(c).
9. The subject territory is sovereign land, held in trust for the Shingle Springs Band of Miwok Indians, which is not subject to zoning and land use designations of the 2004 County General Plan.
10. The subject territory is currently developed land with approximately 40 homes, a library, church, tribal center, community center, **a medical clinic**, a residential fire department and Red Hawk Casino. The 278,000 square foot casino facility has 2,000 slot machines, 75 table games, six restaurants, four bars, and 3,000 lighted and covered parking spaces.
11. Prior to 1987, the Shingle Springs Band of Miwok Indians (Tribe), at the time operating under the name of the Sacramento Verona Band of Homeless Indians, acquired water for the Rancheria residents from EID at out-of-district rates.
12. In 1987, the Tribe and EID entered into an Annexation Agreement to bring the Rancheria into EID's service area, subject to approval by LAFCO.
13. In 1988, the Tribe initiated an annexation petition with LAFCO, which LAFCO subsequently approved, but conditioned its approval by restricting the amount of water EID could provide to the Rancheria for residential and accessory uses only, and limited the amount to what was necessary to serve a community of no more than 40 residential lots.
14. LAFCO and EID have subsequently concluded that the water use restrictions imposed by LAFCO in 1988 are no longer necessary or appropriate, that there are legitimate questions about the validity of the 1988 annexation, and that the proper procedure for removing the restrictions and authorizing EID to serve the Rancheria would be the concurrent detachment and annexation comprising the Reorganization, which will have the effect of vacating the entire 1988 annexation and its conditions.
15. The subject territory consists of a single tax rate area and is currently within TRA 078-100.

16. APN 319-100-37 is an inactive, non-taxable parcel with an assessed value of \$0.00.
17. The subject territory is within the EID sphere of influence.
18. The Reorganization will result in a decrease in water supply available for the buildout of regional housing needs determined by the Sacramento Area Council of Governments. The reorganization will not, however, have a significant foreseeable effect on the ability of the County to adequately accommodate its fair share of those needs.
19. Upon completion of the approval proceedings, EID shall provide water service to the subject territory, at levels consistent with the 2008 MOU or any subsequent legal and binding agreement between EID and the Tribe.
20. EID has planned for the provision of water to the subject territory, and the MOU for services between the Tribe and EID will presumably cover the cost of services to the Rancheria. According to the MOU, the Tribe purchases water at the regular District Retail Rate, which may be amended as necessary.
21. The petition meets the intent, policies, and priorities of this Commission, and the laws and policies within its jurisdiction and authority, including but not limited to the El Dorado LAFCO Policies and Guidelines.
22. This Commission has reviewed and considered the information contained in the EIR, Initial Study and administrative record for the petition.
23. This Commission finds that the EIR and Initial Study contain a complete, accurate and objective reporting of the environmental impacts associated with the reorganization and reflect the independent judgment of the Commission.
24. This Commission further finds that the EIR and Initial Study have been completed in compliance with CEQA, the State CEQA Guidelines and the Commission's Local CEQA Guidelines as detailed in the El Dorado LAFCO Policies and Guidelines.
25. A full and fair public hearing was held on the EIR for the reorganization.
26. This Commission has considered all comments received thereon in response to the public circulation of the EIR, and said EIR is hereby approved and adopted as the EIR for the petition.
27. The EIR addressed, among other things, impacts to agricultural resources, hydrology and water quality, land use and planning, population and housing, public services, transportation and traffic, utilities and service systems, and recreation.

28. EID, in accordance with the California Environmental Quality Act (CEQA) ultimately determined that all impacts of the proposed Reorganization were found to be less than significant.
29. This Commission hereby finds on the basis of its review of the Initial Study and comments on the EIR, and all other written and oral evidence presented to the Commission, there is no substantial evidence in the administrative record to support a fair argument that the proposed change of organization may result in a significant impact on the environment. This Commission further finds that the reorganization will not cause any significant environmental impacts.
30. EID's EIR for the Shingle Springs Reorganization to EID is hereby accepted as the appropriate environmental document for this petition in accordance with CEQA.
31. The County Surveyor has agreed that the submitted legal description and maps are mathematically correct.
32. The Reorganization will not result in negative impacts to the cost and adequacy of services otherwise provided in the area and it is in the best interests of the affected area and the total organization of local government agencies.
33. The area proposed for Reorganization represents an orderly, logical and justifiable reorganization of the EID boundaries.
34. The proposal is assigned the following short form designation:

Shingle Springs Rancheria Reorganization to the El Dorado Irrigation District  
LAFCO Project No. 2012-04
35. The Shingle Springs Rancheria Reorganization to the El Dorado Irrigation District is hereby approved, subject to the following conditions:
  - (a) The subject territory shall be liable for any authorized or existing taxes, fees, service charges, assessments and any bonded indebtedness of EID.
  - (b) In consideration of the approval of the El Dorado Irrigation District's petition for the Reorganization, the El Dorado Irrigation District shall agree to defend, indemnify, hold harmless and release the El Dorado Local Agency Formation Commission, its agents, officers, attorney and employees from any claim, action or proceeding brought against them or any of them, the purpose of which is to attack, set aside, void, condition, challenge or annul the approval of the Reorganization or adoption of the environmental document which accompanies it. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorney fees, or

expert witness fees that may be asserted by any person or entity, including the applicant, arising out of, related to or in connection with the approval of this application, whether or not there is concurrent passive negligence of the part of the El Dorado Local Agency Formation Commission or its agents, officers, attorney or employees. The El Dorado Irrigation District shall execute an agreement, in a form satisfactory to the Commission's legal counsel, reflecting its obligations under this paragraph.

- (c) The Certificate of Completion shall be issued and recorded subsequent to final payment of all LAFCO, State Board of Equalization and County fees, costs and charges associated with the project and necessary to complete the required filings and transmittals.
  - (d) Proponents shall complete all map and legal description requirements for final recording and filing, including documents required by the State Board of Equalization, within 180 days of December 5, 2012.
  - (e) The Certificate of Completion shall be issued and recorded subsequent to the fixing and establishment of any necessary right of use of water by El Dorado Irrigation District in the subject territory (§56886j). Nothing in this condition shall operate or be interpreted to modify priorities of use, or right of use, to water, or capacity rights in any public improvements or facilities that have been fixed and established by a court or an order of the State Water Resources Control Board.
  - (f) ***The Applicant and the Real Party in Interest shall negotiate and execute an agreement specifying the terms and conditions of the Applicant's provision of water to the Shingle Springs Rancheria by May 1, 2013. The District shall forward a copy of the final executed agreement to the Executive Officer prior to the recordation of the Certificate of Completion.***
36. All subsequent proceedings in connection with this Reorganization shall be conducted only in compliance with the approved boundaries and conditions set forth in the attachments and any terms and conditions specified in this resolution.
37. The Executive Officer is hereby authorized and directed to file with the Clerk of the County of El Dorado, a Notice of Determination for the Reorganization, pursuant to Title 14 California Code of Regulations §15075.
38. The effective date shall be the five (5) working days after recordation by the County Recorder of the Executive Officer's Certificate of Completion, which shall be prepared and recorded after the conditions set forth above are met.

39. Upon and after the effective date of said reorganization, the affected territory, all inhabitants within such territory, and all persons entitled to vote by reasons of residing or owning land within the territory:
- (a) Shall be subject to the jurisdiction of EID, hereafter referred to as “the District”;
  - (b) Shall have the same rights and duties as if the affected territory has been a part of the District upon their original formation;
  - (c) Shall be liable for the payment of any authorized or existing taxes, fees, assessments and any bonded indebtedness of the District, including amounts which shall become due on account of any outstanding or then authorized but thereafter issued obligations of the District;
  - (d) Shall be subject to the collection of all taxes, assessments, service charges, rentals or rates as may be necessary to provide for such services;
  - (e) Shall be subject to all of the rules, regulations and ordinances of the District as now existing or hereafter amended.
50. All interested parties, including without limitation the El Dorado Irrigation District, agree that LAFCO retains in perpetuity the authority to enforce, through legal action or otherwise, all of the terms and conditions of the project approval.
51. The documents and materials which constitute the record of proceedings on which these findings are based are located at 550 Main Street, Suite E, Placerville, CA 95667. The custodian of these records is the Executive Officer.

**PASSED AND ADOPTED** by the El Dorado Local Agency Formation Commission at a regular meeting of said Commission, held December 5, 2012 by the following vote of said Commission.

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

ATTEST:

---

Interim Clerk to the Commission

---

Chairperson

# Appendix A

## Notice of Preparation and Environmental Checklist





**NOTICE OF PREPARATION AND PUBLIC SCOPING MEETING**  
**Memorandum of Understanding for Water Service to the Shingle Springs Rancheria**  
**Environmental Impact Report**

**March 3, 2011, 6:00 p.m. to 8:00 p.m.**  
**El Dorado Irrigation District Customer Service Building**  
**Sly Park Conference Room**  
**2890 Mosquito Road, Placerville, California, 95667**

NOTICE IS HEREBY GIVEN that El Dorado Irrigation District (EID or District) staff will hold a California Environmental Quality Act (CEQA) scoping meeting to seek comments on the scope and content of the environmental information that should be included in the Draft Environmental Impact Report (EIR) for the Memorandum of Understanding (MOU) for Water Service to the Shingle Springs Rancheria.

**About the Project.** The proposed project involves EID providing water service to the Shingle Springs Rancheria consistent with the MOU to serve existing uses on the Rancheria, the relocation of an existing flow meter vault, and the installation of a new pipeline on the Rancheria to connect with EID's existing water supply infrastructure.

The proposed project does not include construction and/or operation of the hotel and casino, or the associated highway interchange. These projects have previously undergone both CEQA and National Environmental Policy Act (NEPA) environmental reviews, which were ultimately upheld by the respective state and federal courts. The environmental reviews for the hotel and casino identified two feasible options for providing water service to the casino and hotel: shipping of water using water trucks and delivery from EID. The use of water from EID for the existing and previously-analyzed casino operations, which have been open since 2008, is the subject of this environmental review and the proposed project.

EID would provide water service to the Rancheria through a 3 inch flow meter located in an underground flow meter vault connected to the a new 4,025 foot 12-inch water supply main via a service lateral installed along Honpie Road. Other appurtenances adjacent to the flow meter vault include a backflow prevention assembly. All other existing EID lines within the Rancheria would be disconnected and abandoned in place. The meter would provide maximum continuous flow of 95 gpm and a maximum average daily delivery of 135,000 gallons.

**Purpose of Scoping Meeting.** EID has prepared an Initial Study to help determine the scope and content of the EIR. The Initial Study is available for public review for 31 days, February 11, 2011 through March 14, 2011 at:

1. El Dorado Hills Public Library, 7455 Silva Valley Parkway, El Dorado Hills
2. Placerville Main Public Library, 345 Fair Lane, Placerville
3. EID Customer Service Building, 2890 Mosquito Road, Placerville
4. EID website at [www.eid.org](http://www.eid.org).

The purpose of the scoping meeting is to provide a forum for the public to comment on the Initial Study. These comments will assist EID staff in determining the scope and content of the Draft EIR, including helping EID to identify the range of, alternatives, mitigation measures, and any potentially significant effects associated with the proposed project.

**For More Information.** Comments on the Initial Study must be received by 5:00 p.m. on March 14, 2011. Requests for additional information and comments on the scope and content of the Initial Study can be sent to Dan Corcoran, Environmental Manager, El Dorado Irrigation District at 2890 Mosquito Road, Placerville, CA 95667, or [dcorcoran@eid.org](mailto:dcorcoran@eid.org).



## NOP Distribution List



## **NOP DISTRIBUTION LIST**

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### **Individuals**

Donald W Endsley	Michael G Kelly	Earlean G Martin
Kathryn L Locatell	Richard M Tr Gnagy	Jason King
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C Vanessa Tr Solomon	Derrek L Lee	Lucy Tr Olson
Kathleen Stymeist	Tom L Jr & V C Pettibone	Kyle K Bross
Antonio J Tr Armas	Marcelyn Scott	Jeffrey Wagner Neeland
Robert Saenz	John P Tr Bingham	Johnie W Jr Tr Bramble
Lisa A Paczesniak	Kimberly Jo Dickson	

### **Agencies**

State Clearinghouse	California Department of Fish & Game Kent Smith
California Department of Fish & Game Patrick Moeszinger	Caltrans - District 3 Judy Jones
California Water Quality Control Board Central Valley Region Pamela Creedon	El Dorado LAFCO José Henríquez
El Dorado County Planning Department	EDC Air Quality Mgmt. District Marcella McTaggart
El Dorado County Department of Transportation Jim Ware	County Board of Supervisors, District 4 Ron Briggs
El Dorado County Board of Supervisors Ray Nutting	Cameron Park CSD Fred Smith
El Dorado County Fire Protection District Bruce Lacher	Diamond Springs-El Dorado Fire Protection District Todd Cunningham
U.S. Department of Interior, Bureau of Land Management William Haigh	U.S. Department of Interior, Bureau of Indian Affairs
National Indian Gaming Commission	

## **Organizations**

Shingle Springs Band of Miwok Indians  
Nick Fonseca

Volker Law Offices

Grassy Run Homeowners  
Association/Community Services District

SNR Denton  
Matthew Adams

North Buckeye Rancheros Homeowners  
Association

## **Publications**

Mountain Democrat  
Sacramento Bee  
Village Life  
El Dorado Hills Telegraph

## **Postings**

EID Customer Service Building  
El Dorado County Recorder/Clerk  
EID Website  
El Dorado County Library  
El Dorado County Library

# EL DORADO IRRIGATION DISTRICT MEMORANDUM OF UNDERSTANDING FOR WATER SERVICE TO THE SHINGLE SPRINGS RANCHERIA

Initial Study Checklist

Prepared for  
El Dorado Irrigation District

February 2011



# EL DORADO IRRIGATION DISTRICT MEMORANDUM OF UNDERSTANDING FOR WATER SERVICE TO THE SHINGLE SPRINGS RANCHERIA

## Initial Study Checklist

Prepared for  
El Dorado Irrigation District

February 2011



2600 Capitol Avenue  
Suite 200  
Sacramento, CA 95816  
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# EL DORADO IRRIGATION DISTRICT MEMORANDUM OF UNDERSTANDING

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# EL DORADO IRRIGATION DISTRICT MEMORANDUM OF UNDERSTANDING

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## Environmental Checklist

1. **Project Title:** El Dorado Irrigation District Memorandum of Understanding for Water Service to the Shingle Springs Rancheria
2. **Lead Agency Name and Address:** El Dorado Irrigation District  
2890 Mosquito Rd  
Placerville, CA 95667
3. **Contact Person and Phone Number:** Dan Corcoran, Environmental Manager  
(530)642-4082
4. **Project Location:** See project description
5. **Project Sponsor's Name and Address:** El Dorado Irrigation District  
2890 Mosquito Rd  
Placerville, CA 95667
6. **General Plan Designation:** Adopted Plan
7. **Zoning:** Exempt from County Zoning
8. **Description of Project:** See project description
9. **Surrounding Land Uses and Setting:** See project description
10. **Other public agencies whose approval is required:** El Dorado County LAFCO



## Environmental Factors Potentially Affected

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a potentially significant impact.

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Aesthetics                     | <input type="checkbox"/> Agriculture and Forest Resources         | <input type="checkbox"/> Air Quality                   |
| <input type="checkbox"/> Biological Resources           | <input type="checkbox"/> Cultural Resources                       | <input type="checkbox"/> Geology, Soils and Seismicity |
| <input type="checkbox"/> Greenhouse Gas Emissions       | <input type="checkbox"/> Hazards and Hazardous Materials          | <input type="checkbox"/> Hydrology and Water Quality   |
| <input type="checkbox"/> Land Use and Land Use Planning | <input type="checkbox"/> Mineral Resources                        | <input type="checkbox"/> Noise                         |
| <input type="checkbox"/> Population and Housing         | <input type="checkbox"/> Public Services                          | <input type="checkbox"/> Recreation                    |
| <input type="checkbox"/> Transportation and Traffic     | <input checked="" type="checkbox"/> Utilities and Service Systems |  |

### DETERMINATION:

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

## Project Description

### 1. Introduction and Background

In 1988, the El Dorado County Local Agency Formation Commission (LAFCO) adopted a resolution approving the Shingle Springs Rancheria (Rancheria or Tribe) petition to annex into the El Dorado Irrigation District (EID or District) service area for the purpose of water service. The resolution included a condition that EID provide water for residential uses only, including accessory uses and for tribal use limited to community facilities, schools, playgrounds, recreational facilities, a residential home for tribal elders and community grazing or garden projects. A further condition imposed was that water service was to be limited to that necessary to serve a community of 40 residential lots. This is equivalent to 45 equivalent dwelling units (EDUs).

In 2001, the California Department of Transportation (Caltrans) and the Tribe finalized an agreement by which Caltrans would work with the Tribe so the Tribe could construct an interchange connecting Highway 50 to the Rancheria. That interchange would allow the Tribe to construct and operate a casino and hotel on the Rancheria pursuant to a gaming compact with the State of California and certain approvals from the National Indian Gaming Commission (NIGC) and the Bureau of Indian Affairs (BIA). The casino and hotel project was reviewed pursuant to National Environmental Policy Act (NEPA) and an Environmental Assessment (EA) was prepared<sup>1</sup>. Caltrans also prepared and certified a joint EA/Environmental Impact Report (EIR) in 2002<sup>2</sup>, which analyzed off-Rancheria impacts of the interchange and the hotel and casino. Litigation resulted in Caltrans preparing a Supplemental EIR<sup>3</sup> as well, and ultimately, the California Court of Appeal upheld Caltrans's environmental review of the interchange and hotel and casino, and, in 2008, the California Supreme Court declined to review the case, ending the litigation. Additionally, Federal courts upheld both the EA and joint EA/EIR in response to legal challenges. The Tribe opened the hotel and casino in 2008.

Also in 2008, EID and the Tribe entered into a Memorandum of Understanding (MOU) stating that the District would provide the Rancheria with water service at a maximum rate of 95 gallons per minute and an average volume of 135,000 gallons per day (gpd), a net increase of 215.75 EDU over the existing 45 EDUs of service. The MOU stated that the El Dorado LAFCO restrictions were not binding because they were in conflict with achieving congressionally approved uses of the Rancheria, including the hotel and casino, and were therefore preempted. The District prepared a Notice of Exemption under the California Environmental Quality Act (CEQA) for adopting and implementing the MOU. Following adoption of the 2008 MOU, the Tribe completed the physical improvements necessary to receive water service consistent with the MOU. Those improvements are described below in Section 5.

<sup>1</sup> National Indian Gaming Commission, *Shingle Springs Rancheria Hotel and Casino Project Final Environmental Assessment/Finding of No Significant Impact*, December 2001.

<sup>2</sup> California Department of Transportation, *Shingle Springs Interchange Project Final Environmental Impact Report/Environmental Assessment*, September 2002.

<sup>3</sup> California Department of Transportation, *Shingle Springs Interchange Project Final Supplemental Environmental Impact Report*, August 2006.

Approval of the MOU with a CEQA exemption was subsequently challenged in El Dorado County Superior Court (Court). In a December 15, 2009, decision (*Voices for Rural Living v. El Dorado Irrigation District, et. al.*), the Court concluded that, based on the administrative record then before it, the District's Notice of Exemption was improper. Specifically, the Court noted that the administrative record left some doubt about whether the MOU may have a significant impact on the District's water supplies, particularly during severe drought conditions. However, the Court subsequently held that EID may continue to provide drinking water to the Tribe in an amount not to exceed that which the MOU allows and on terms not inconsistent with the MOU, so long as EID is actively pursuing compliance with CEQA.

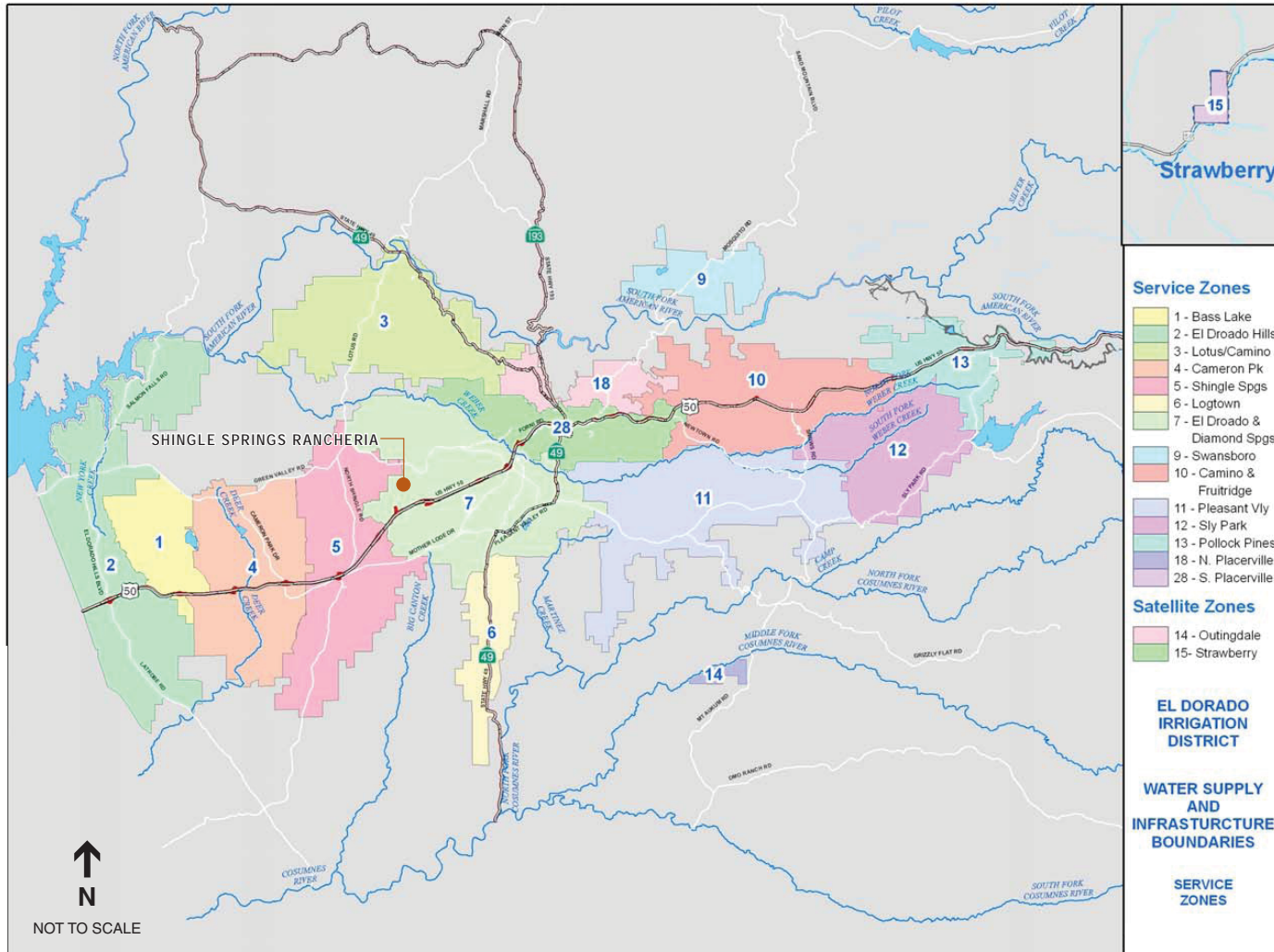
On September 13, 2010, the Court issued a Peremptory Writ of Mandate (Writ) providing that EID may only adopt a MOU with the Rancheria or other agreement to provide water service to the Rancheria after EID has: (1) complied with CEQA; and (2) secured any necessary approvals from LAFCO. The Writ further states that EID may continue to provide water service to the Rancheria in an amount not to exceed what the MOU allows and on terms not inconsistent with the MOU, so long as the District is actively pursuing the actions described above in (1) and (2). The District has chosen to prepare its response to the Writ in the form of an EIR. The Writ defines the scope of this analysis.

CEQA Guideline 15126.2 states that “[i]n assessing the impact of a proposed project on the environment, the lead agency should normally limit its examination to changes in the existing physical conditions in the affected area as they exist at the time the notice of preparation is published...”. However, to provide a complete assessment of potential impacts of the proposed project and in response to the Court decision, for the purpose of this analysis existing conditions (or baseline) regarding water supply has been defined as those conditions existing immediately before EID approved the MOU. Therefore, the proposed project includes EID providing water service to the Shingle Springs Rancheria consistent with the MOU to serve existing uses on the Rancheria and the relocation of an existing flow meter vault and the installation of a new pipeline on the Rancheria to connect with EID's existing water supply infrastructure. No other EID construction on or off the Reservation is proposed to occur. A detailed discussion of proposed project elements is provided below.

The previous environmental reviews outlined above identified two potentially feasible options for providing water service to the casino and hotel: shipping of water using water trucks and delivery from EID. The use of water from EID for the existing and previously-analyzed gaming facility is the subject of this environmental review and the proposed project.

## 2. Project Location

The Shingle Springs Rancheria is on the north side of Highway 50, approximately 10 miles east of Placerville. The Rancheria encompasses approximately 160 acres. (See **Figure 1**).



SOURCE: EID, 2009; and ESA, 2010

El Dorado Irrigation District Memorandum of Understanding NOP/IS . 210446

**Figure 1**  
 El Dorado Irrigation District Service Area

The District is located on the western slope of the Sierra Nevada in El Dorado County (see Figure 1) in two major watersheds, the South Fork of the American River to the north and the North Fork of the Cosumnes River to the south. The District is hydrologically split by the Placerville Ridge and Highway 50. Although the rivers drain east to west, the minor streams trend northwest toward the American River and southwest toward the Cosumnes River<sup>4</sup>.

As shown on Figure 1, the District is divided up into service zones with the Rancheria located in the El Dorado and Diamond Springs Service Zones. Proposed infrastructure improvements would be installed on the Rancheria approximately 2,000 feet to the southwest from the present location and connected to an existing water line located along Honpie Road serving the Rancheria (see **Figure 2**). Both the existing water line and the water line connecting the relocated meter are located entirely on the Rancheria, which is federal land.

### 3. Project Objectives

The primary objectives of the proposed project are to:

- Provide water service to the Rancheria consistent with the May 2008 MOU.
- Provide water service to the Rancheria consistent with EID's plans, policies, and administrative regulations.
- Provide sufficient water service to support the consumptive and fire suppression demands of existing development on the Rancheria, including approximately 24 residences, tribal administrative buildings, the gaming facility developed in 2008, and landscaping.
- Obtain LAFCO approval as necessary to allow full implementation of the MOU.

### 4. Existing Operations

The following summarizes existing EID operations.

#### 4.1 Existing EID Operations

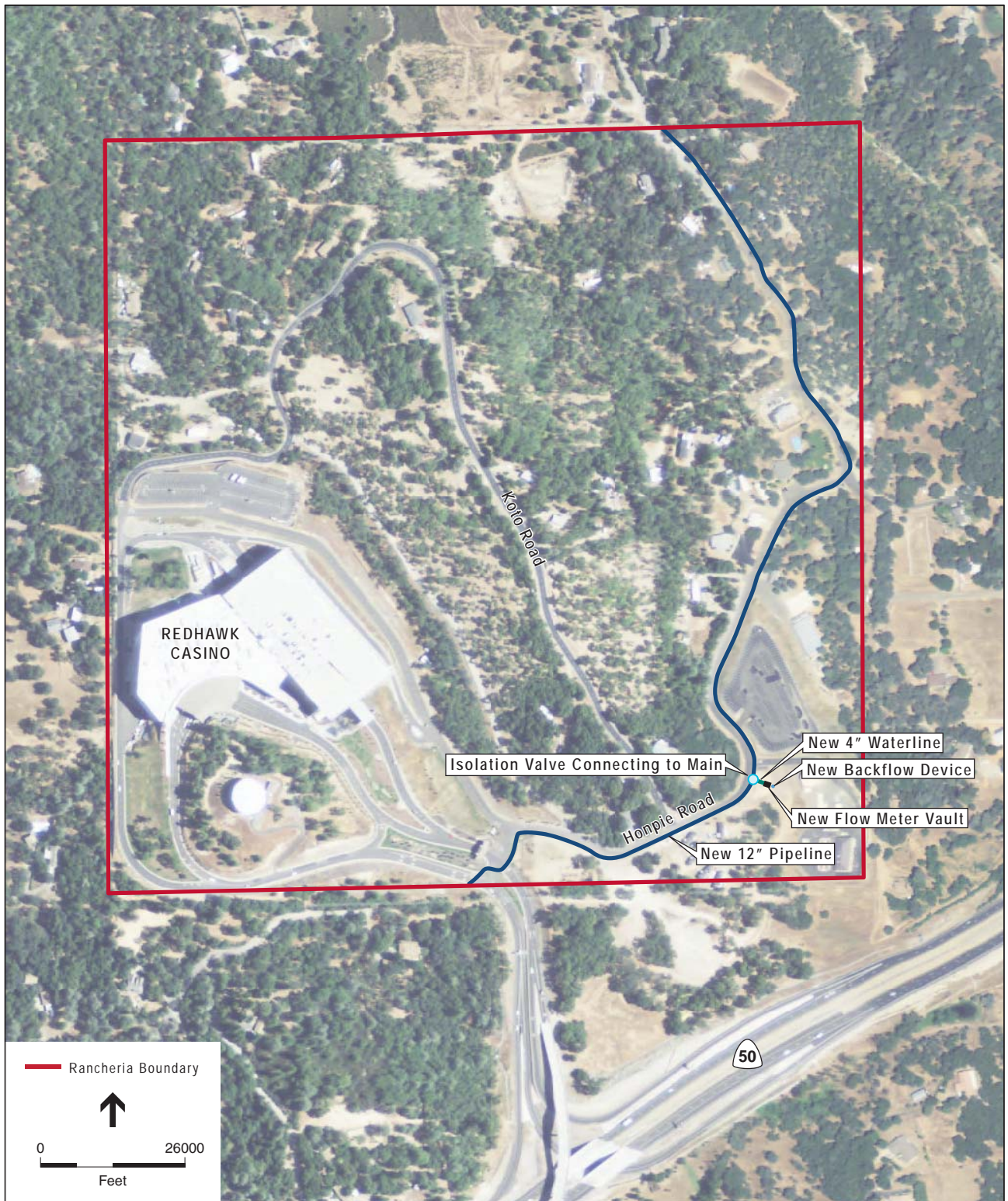
EID serves drinking water to approximately 92,400 people through roughly 38,000 active service connections. EID relies entirely on surface water to meet its potable water demand. EID's transmission system is composed of three subsystems, the El Dorado Forebay subsystem; the Jenkinson Lake subsystem; and the Folsom Lake subsystem. The three main diversion points for the system are District-owned and -operated Sly Park Dam and Jenkinson Lake, the District's Hydroelectric Project 184 at Forebay Reservoir, and Folsom Lake, where the District has rights under a Water Service Contract and a Warren Act Contract with the US Bureau of Reclamation (USBR), and State water right permit 21112. The District also has two satellite diversions, providing service to Outingdale via a diversion from the Middle Fork of the Cosumnes River and to the community of Strawberry via a diversion on the upper South Fork of the American River.<sup>5</sup>

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<sup>4</sup> El Dorado Irrigation District, 2006. *Final Urban Water Management Plan 2005 Update El Dorado County, California* January 2006..

<sup>5</sup> El Dorado Irrigation District, 2006. *Final Urban Water Management Plan 2005 Update El Dorado County, California* January 2006.





Water conveyance through the distribution system includes a combination of pipelines, regulating reservoirs, tanks, and a limited number of gold rush era ditches. The ditch system that delivers raw water to agricultural users and a water treatment facility is composed of 26.5 miles of ditch, 15 percent of which is piped. The piped potable system consists of 1,239 miles of pipe ranging in size from 2 inches to 48 inches. The District has a total of 36 tanks and reservoirs with a combined storage capacity of 72.2 million gallons (MG). EID water storage facilities include 41,033 ac-ft in Jenkinson Lake, 1,200 ac-ft in Weber Reservoir, and a total of approximately 37,500 ac-ft in Project 184 storage (Lake Aloha and Caples, Silver, and Echo lakes)<sup>6</sup>.

In the El Dorado Forebay subsystem, water is treated at the Forebay water treatment plant (26 mgd capacity) located in Pollock Pines. Water in the Jenkinson Lake subsystem is treated at the Sly Park water treatment plant (64 mgd capacity). The Folsom Lake subsystem conveys treated water from the El Dorado Hills water treatment plant (19.5 mgd capacity)<sup>7</sup>.

**Water Use by Demand Type**

The past, current, and projected water demand and supply for the District in a normal water year are identified in **Table 1**. Projected demands are based on the growth and population assumptions from the adopted 2004 El Dorado County General Plan, which used an analysis of the acreage within the region, and the demands that would result if the acreage were developed in accordance with the forecast land uses and requirements. The growth rate is the average increase in demand experienced by the District between 1989 and 1999. The annual rate of increase from past water years 2000 through 2005 is approximately four percent. The District estimates that its demand will increase at an overall 2.5 percent annual rate through 2030, corresponding to a demand projection of approximately 89,000 acre-feet per year (ac-ft/yr) by the year 2030. Demand reductions as a result of conservation efforts are not included in these projections<sup>8</sup>.

**TABLE 1  
PAST, CURRENT, AND PROJECTED WATER DELIVERIES (AC-FT/YR)**

Water Use Sectors	Year						
	2000	2005	2010	2015	2020	2025	2030
Single Family	18,322	20,816	23,311	25,805	28,300	30,794	33,288
Multi-Family	1,159	1,399	1,639	1,880	2,120	2,360	2,600
Commercial	2,841	3,862	4,882	5,903	6,923	7,944	8,965
Agricultural	6,571	9,677	12,783	15,888	18,994	22,100	25,206
Recreational Turf Services	1,720	1,720	1,720	1,720	1,720	1,720	1,720
Ditches	1,019	1,115	1,212	1,308	1,404	1,500	1,596
UFW and Beneficial Uses	5,706	6,558	7,409	8,260	9,112	9,963	10,814
Latent Demand	2,131	2,634	3,138	3,642	4,145	4,649	5,153
Total Demand	39,469	47,781	56,094	64,406	72,718	81,030	89,342
Total Supply	n/a	70,200	82,065	83,362	103,653	103,653	103,653

SOURCE: El Dorado Irrigation District, 2006. Final Urban Water Management Plan 2005 Update El Dorado County, California January 2006.

<sup>6, 7, 8</sup> El Dorado Irrigation District, 2006. Final Urban Water Management Plan 2005 Update El Dorado County, California January 2006.

The District adopted a Drought Preparedness Plan in January 2008. The Plan presents the actions and procedures for preparing for, identifying, and responding to a drought. The objective of the Plan is to help EID preserve essential public services and to minimize the effects of a water shortage on public health and safety, economic activity, environmental resources, and individual lifestyle.<sup>9</sup> Implementation of the Plan involves both voluntary response actions and mandatory response actions, depending on water supply conditions. Voluntary and mandatory actions apply to all EID customers, including the Tribe.

## 5. Project Elements

Under the proposed project, EID would provide water service to the Shingle Springs Rancheria consistent with the MOU to serve existing uses on the Rancheria. Specific project elements are described below.

Water service would be provided through a three-inch flow meter located on the Rancheria in an approximately 5-foot by 7-foot underground vault (flow meter vault) adjacent to Honpie Road. The meter would provide maximum continuous flow of 95 gpm and a maximum average daily delivery of 135,000 gallons. No physical changes would occur to EID control, access, operation, maintenance, repair, or replacement capabilities. Water service on the Rancheria would be provided through a tribal utility district independent of EID. The new flow meter would be relocated approximately 2,000 feet to the southwest from the existing meter serving the Rancheria. The flow meter would be connected to approximately 4,025-feet of new 12-inch water supply pipeline along Honpie Road. The underground flow meter vault would be locked and EID would have sole access. Other appurtenances adjacent to the flow meter vault include a backflow prevention assembly structure which would be approximately 4-feet tall. The proposed project would also include the abandonment in place of an existing 6-inch EID waterline that runs just outside of the Rancheria along Artesia Road and all 6-inch waterlines and service connections within the Rancheria, which extend from north of Reservation Court to the existing 12-inch line. Abandonment in place of the existing asbestos concrete pipeline is EID and industry standard practice and would minimize the need for additional land disturbance. The Tribe installed the water service infrastructure in 2008. Consistent with the Court's December 15, 2009 order, however, this project description and accompanying environmental analyses assess the project's environmental impacts as if these water service improvements are not yet constructed.

The Tribe is responsible for the construction of any new infrastructure on the downstream side of the three-inch meter, including backflow protection. As part of the EID's and the Tribe's respective construction responsibilities, EID would abandon existing easements on Rancheria land, and the Bureau of Indian Affairs (BIA) would grant EID easements for all new lines to allow EID control and maintenance.

No new infrastructure would be constructed off the Rancheria in the EID service area and existing EID operations would remain unchanged.

<sup>9</sup> El Dorado Irrigation District, 2008. *Drought Preparedness Plan*, January 2008.



## 5.1 Environmental Commitments

Measures to protect sensitive environmental resources during the construction phase of the proposed project have been incorporated into the proposed project. These environmental commitments are consistent with mitigation measures adopted on January 22, 2002 by the Shingle Springs Band and the National Indian Gaming Commission as part of the Shingle Springs Rancheria Hotel and Casino Project Final Environmental Assessment/Finding of No Significant Impact (EA/FONSI). The mitigation measures described in the Final EA/FONSI (Section 6.0 Mitigation Measures) were implemented to reduce potentially significant adverse impacts associated with the development of the hotel and casino project, which included the installation of water supply infrastructure consistent with the proposed project. The MOU includes the Tribe's commitment to implement these water supply-related measures as necessary. The Shingle Springs Rancheria Hotel and Casino Project, El Dorado, California Final EA/FONSI is hereby incorporated by reference consistent with CEQA Guidelines Section 15150 and is available for review at EID's main office located at 2890 Mosquito Road, Placerville, California, 95667.

The following are the environmental commitments that are part of the proposed project.

Implement construction related air quality BMP's, rules, and guidelines, consistent with the El Dorado County Air Quality Management District, including the following:

- a. Incorporation of the following construction related BMP's contained within Chapter 8.44 of Title 8 of the El Dorado County Ordinance Code, Section 8.44.030 which specifically addresses "General Requirements for Grading, Excavation and Construction Activities."
  - Water work areas during excavation and other ground disturbing activities at least twice daily, or more frequently if necessary to prohibit visible dust emissions.
  - Limit vehicle access and speed.
  - Maintain high moisture conditions or apply a "binder" to seal fibers of disturbed surfaces or stockpiles.
  - Cover loads of excavated materials.
  - Sweep dirt and debris that may contain asbestos from adjacent street to prevent re-suspension.

Implement the following Best Management Practices (BMPs) to protect receiving water quality:

- Sediment curtains would be placed upstream and downstream of the construction zone to prevent sediment disturbed during trenching activities from being transported and deposited outside of the construction zone.
- Spoil sites such that they do not drain directly into drainages and/or seasonal wetlands. If a spoil site would be located so that they drain into a drainage channel or seasonal wetland, catch basins would be constructed to intercept sediment before it reaches the drainage or wetland. Spoil sites would be covered to reduce the potential for erosion.
- Equipment and materials would be stored away from the drainages and wetland areas. No debris shall be deposited within 25 feet of the drainages and wetland areas.

Implement the following measures to protect nesting raptors:

- Tree removal activities would be conducted before or after the raptor nesting season which runs from March 1 through August 31.
- A qualified wildlife biologist would be retained to conduct a survey for nesting raptors during the nesting season at the project site prior to construction activity (i.e., grading). Active raptor nests located within 0.25 mile of construction activity would be mapped.
- If active raptor nests are located on or within 0.25 mile of an active or scheduled construction site, then appropriate buffer zones would be established in consultation with the California Department of Fish and Game (CDFG) , and construction activities would be prohibited within this buffer zone until the end of the nesting season or until the young have fledged. A qualified wildlife biologist would monitor the nest to determine when the young have fledged and submit weekly reports to the CDFG throughout the nesting season.
- If necessary, identified nest trees would only be removed prior to the onset of the nesting season (March) or after young have fledged (August).

## 5.2 Construction Considerations

The proposed 4,025-foot pipeline trench would be 2-feet wide by 6-feet deep. Although, distance of pipeline installed would vary on a daily basis, it is anticipated an average of 150-200 feet of pipeline would be installed daily and would occur over the course of 20-27 days. All excavated material would be used as backfill or deposited onsite and no soils material hauling would be required. Construction equipment required for the proposed project would include a 24-inch bucket excavator and up to 2 pick-up trucks.

Construction activities would be conducted in conformance with the environmental commitments discussed under subsection 5.1.

## Environmental Checklist

### Aesthetics

#### Environmental Checklist and Discussion

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
<b>1. AESTHETICS—</b>				
<b>Would the project:</b>				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway corridor?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect daytime or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

#### **Discussion**

- a,b) Land uses on the Rancheria are primarily low-density residential and accessory community facilities, and hotel, gaming, and entertainment uses. There are no scenic vistas or scenic resources on the Rancheria where the proposed water supply infrastructure would be installed. Nor would there be any construction in other, off-Rancheria locations. Therefore, the proposed project would not have a substantial adverse effect on a scenic vista or substantially damage scenic resources. No impact would occur and this issue will not be evaluated in the EIR.
- c) Because proposed facilities would be primarily underground, implementation of the proposed project would not permanently change the surrounding visual character. Due to the size of the proposed facilities, installation of the pipeline vault, and backflow prevention assembly structure would require limited trenching and construction activities, including use of equipment and construction staging. The trenches would be filled in and the ground leveled back to original grade. Because ground disturbance would be short-term there would be no permanent change to visual character. The approximately 4-foot tall backflow prevention assembly structure would be located adjacent to the road and is not inconsistent with surrounding buildings and utility facilities. Therefore, implementation of the proposed project would not substantially degrade the visual character of the site and its surroundings, and this less-than-significant impact will not be evaluated in the EIR.
- d) The proposed underground pipeline, flow meter vault, and backflow prevention assembly structure would not include the installation of any new lighting nor would they involve the use of reflective materials that could create new sources of glare. Therefore, no impact would occur and this issue will not be evaluated in the EIR.

## Agricultural and Forest Resources

### Environmental Checklist and Discussion

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
<b>2. Agricultural and Forest Resources— Would the project:</b>				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland of Statewide Importance to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### Discussion

- a,b) There are no agricultural uses or Williamson Act Contracts on or adjacent to the Rancheria.<sup>10</sup> Therefore, there would be no on- or off-reservation conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, and no conflict with Williamson Act contracted lands. No impact would occur and this issue will not be evaluated in the EIR.
- c,d) Land uses on the Rancheria are primarily low-density residential and accessory community facilities, hotel, gaming, and entertainment uses. Land surrounding the Rancheria is zoned and designated by the El Dorado County General Plan as low density residential.<sup>11</sup> Therefore, implementation of the proposed project would not conflict with existing zoning for, or cause rezoning of, forest land or timberland zoned Timberland Production, and it would not result in the loss or conversion of forest land to non-forest use. No impact would occur and this issue will not be evaluated in the EIR.
- e) As discussed in Environmental Checklist Items 2a through d, construction of proposed infrastructure on the Rancheria would not result in the direct or indirect conversion of

<sup>10</sup> <http://www.conservation.ca.gov/dlrp/lca/Pages/Index.aspx> accessed November 1, 2010.

<sup>11</sup> El Dorado County, 2003. El Dorado County General Plan Land Use Diagram.



## Air Quality

### Environmental Checklist and Discussion

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
<b>3. AIR QUALITY</b>				
Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations.				
<b>Would the project:</b>				
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

#### Discussion

- a-d) Construction activities would generate dust, equipment, and vehicle emissions; however, the emissions would be short-term in duration and minimal due to the limited activity required to install the proposed infrastructure. The proposed project includes the following environmental commitments to minimize construction air emissions:

Implement construction related air quality BMP's, rules, and guidelines, consistent with the El Dorado County Air Quality Management District, including the following:

- b. Incorporation of the following construction related BMP's contained within Chapter 8.44 of Title 8 of the El Dorado County Ordinance Code, Section 8.44.030 which specifically addresses "General Requirements for Grading, Excavation and Construction Activities."
  - Water work areas during excavation and other ground disturbing activities at least twice daily, or more frequently if necessary to prohibit visible dust emissions.
  - Limit vehicle access and speed.
  - Maintain high moisture conditions or apply a "binder" to seal fibers of disturbed surfaces or stockpiles.
  - Cover loads of excavated materials.
  - Sweep dirt and debris that may contain asbestos from adjacent street to prevent re-suspension.

Short-term mitigated and unmitigated construction-generated emissions of criteria pollutants were modeled using the AQMD recommended URBEMIS 2007, Version 9.2.4, computer program in conjunction with the AQMD CEQA Guidelines significance criteria. The AQMD CEQA Guidelines specify that the maximum daily mass emissions of reactive organic gas (ROG), nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO), and particulate matter that is 10 microns and 2.5 microns or less in diameter (PM<sub>10</sub>, and PM<sub>2.5</sub>) that would be emitted during project construction (expressed in pounds per day [lb/day]) be quantified. However, it should be noted that the AQMD has determined that if ROG and NO<sub>x</sub> emissions are below El Dorado County AQMD Significance Criteria, then exhaust emissions of CO and PM<sub>10</sub>, and PM<sub>2.5</sub> from construction equipment, and all constituents from worker commute vehicles, could also be deemed not significant (EDCAQMD, 2002). **Table 2** presents the AQMD significance thresholds and a summary of modeled mitigated and unmitigated construction generated emissions.

**TABLE 2  
YEAR 2011 - CONSTRUCTION EMISSIONS ESTIMATES (POUNDS PER DAY)**

Pollutant	El Dorado County APCD Significance Thresholds	Year 2011 - Construction Emissions (lbs/day) <sup>1, 2</sup>	
		Unmitigated Worse-Case Day	Mitigated Worse-Case Day <sup>3</sup>
ROG	82 (lbs/day)	1	1
NO <sub>x</sub>	82 (lbs/day)	11	11
PM10	AAQS <sup>3,4</sup> 50 µg/m <sup>3</sup>	11	6
PM2.5	AAQS <sup>3</sup> 35 µg/m <sup>3</sup>	3 <sup>4</sup>	2 <sup>4</sup>
CO	AAQS <sup>3</sup> 9 ppm (1 hour) 20 ppm (8 hour)	6 <sup>4</sup>	6 <sup>4</sup>

1 Project construction emissions estimates were made using URBEMIS 2007. Assumptions included the following: 1-month of construction (January 2011), with a daily acreage disturbed of 0.01 acres, one roundtrip per truck with a roundtrip length of 20 miles (for a total distance of 40 miles for both trucks), and one excavator and one water truck operating per day. See Appendix AQ for details.

2 Values in **bold** are in excess of the applicable El Dorado County AQMD significance threshold.

3 For the non-ozone precursor pollutants, the El Dorado County AQMD considers emissions to be significant if they will cause or contribute significantly to a violation of the applicable national or state ambient air quality standards (AAQS).

4 El Dorado County AQMD has determined that if ROG and NO<sub>x</sub> Emissions are determined to be not significant per El Dorado County AQMD Significance Criteria, then exhaust emissions of CO and PM from construction equipment, and all constituents from worker commute vehicles, may also be deemed not significant (El Dorado County CEQA Guide, Chapter 4, Page 3).

5 Emission reductions incorporated into URBEMIS modeling include "Replace Ground Cover in Disturbed Areas Quickly", "Water Exposed Surfaces 2x Daily", and "Reduce Speed on Unpaved Roads to Less than 15 mph".

SOURCE: ESA, 2011; El Dorado County AQMD, 2002

As shown in Table 2, all unmitigated and mitigated worst-case day proposed project construction emissions would be below the significance thresholds due to the temporary and limited nature of construction emissions and incorporation of measures to reduce fugitive dust emissions. Therefore, impacts associated with construction related air emissions would be less than significant and this issue will not be evaluated in the EIR. Potential exposure to naturally-occurring asbestos is addressed in Environmental Checklist Item 8.

Implementation of the proposed project would not involve the installation of new permanent mechanical or electrical facilities that would contribute to long-term operational air emissions. In addition, there would be no noticeable increase in vehicle emissions associated with water supply infrastructure maintenance vehicles. Proposed facilities would be maintained by existing EID staff. Therefore, there would be no noticeable change in long-term operational air emissions over current conditions. This impact would be less than significant and will not be evaluated in the EIR.

- e) Generally, the types of land use development that pose potential odor problems include wastewater treatment plants, refineries, landfills, composting facilities and transfer stations. The proposed project would involve the installation of new water supply infrastructure on the Rancheria and the provision of water service to the Shingle Springs Rancheria consistent with the MOU between EID and the Rancheria to serve existing uses on the Rancheria. None of the proposed project elements would result in the creation of objectionable odors; therefore, no impact would occur and this issue will not be evaluated in the EIR.
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## Biological Resources

### Environmental Checklist and Discussion

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
<b>4. BIOLOGICAL RESOURCES— Would the project:</b>				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

#### **Discussion**

- a-d) Facilities would be installed on the Rancheria in an area primarily surrounded by built uses. The trenches would be filled in and the ground leveled back to original grade. Construction activities could disturb special-status species and habitat. Several special-status plant and animal species have the potential to occur in the area surrounding the proposed new infrastructure including California Red-Legged Frog, Valley Elderberry Longhorn Beetle and Layne's Butterweed. However, the Shingle Springs Rancheria Hotel and Casino Project Final EA/FONSI found that potential impacts to these species would not be significant due to the location of potential habitat relative to the casino project site, or because surveys conducted did not reveal presence of these species.<sup>12</sup> Because the proposed infrastructure would be installed within the area evaluated for the casino project in the Environmental

<sup>12</sup> National Indian Gaming Commission, 2001. *Shingle Springs Rancheria Hotel and Casino Project El Dorado County, California, Final Environmental Assessment*, December 2001.

Assessment, impacts to special-status species would be less than significant and impacts associated with installation of the proposed infrastructure will not be evaluated in the EIR.

Suitable habitat exists in the vicinity of the proposed infrastructure for nesting raptors. A survey conducted as part of the Shingle Springs Rancheria Hotel and Casino Project Final EA/FONSI did not identify any active nests; however, nests can be established prior to construction activities.<sup>13</sup> The project includes the following environmental commitments to protect nesting raptors:

- Tree removal activities would be conducted before or after the raptor nesting season which runs from March 1 through August 31.
- A qualified wildlife biologist would be retained to conduct a survey for nesting raptors during the nesting season at the project site prior to construction activity (i.e., grading). Active raptor nests located within 0.25 mile of construction activity would be mapped.
- If active raptor nests are located on or within 0.25 mile of an active or scheduled construction site, then appropriate buffer zones would be established in consultation with the California Department of Fish and Game (CDFG), and construction activities would be prohibited within this buffer zone until the end of the nesting season or until the young have fledged. A qualified wildlife biologist would monitor the nest to determine when the young have fledged and submit weekly reports to the CDFG throughout the nesting season.
- If necessary, identified nest trees would only be removed prior to the onset of the nesting season (March) or after young have fledged (August).

As a result, potential impacts to nesting raptors associated with installation of the proposed infrastructure would be less than significant and will not be evaluated in the EIR.

An intermittent channel in the vicinity of the project area was determined to be jurisdictional under Section 404 of the Clean Water Act.<sup>14</sup> However, the proposed facilities would be installed adjacent to Honpie Road so they would not be located in the vicinity of the channel; therefore, there would be no fill and no direct affect to wetland resources. Construction activities could result in discharge of sediments or the placement of equipment that could affect the quality of the water of the intermittent stream channel. Construction of the proposed infrastructure would include implementation of Best Management Practices (BMPs) to protect receiving water quality (see Environmental Checklist Items 9a and f). Therefore, impacts to federally protected wetlands as defined by Section 404 of the Clean Water Act resulting from installation of the proposed infrastructure would be less than significant and will not be evaluated in the EIR.

Implementation of the proposed project would involve increased water supply service to the Rancheria consistent with the MOU between EID and the Rancheria to serve existing

<sup>13</sup> National Indian Gaming Commission, 2001. *Shingle Springs Rancheria Hotel and Casino Project El Dorado County, California, Final Environmental Assessment*, December 2001.

<sup>14</sup> National Indian Gaming Commission, 2001. *Shingle Springs Rancheria Hotel and Casino Project El Dorado County, California, Final Environmental Assessment*, December 2001.

uses on the Rancheria. However, approving and executing the MOU would not require or result in a change to existing EID operations. Potentially significant impacts to special-status species, sensitive habitat, federally protected wetlands, and other terrestrial and aquatic species associated with existing EID operations of Project 184 (one of two sources of supply) are discussed and addressed in the 1999 EIR for the Acquisition, Repair, and Operation of Project 184 and NEPA and CEQA analysis performed by the Federal Energy Regulatory Commission (FERC) and the State Water Resources Control Board (SWRCB) for the relicensing of Project 184 in 2003 and 2006, respectively. Specifically, the FERC Environmental Impact Statement (EIS) and 2006 SWRCB Supplemental CEQA analysis identified operational and environmental measures that are included in the FERC license and accompanying documents, and are implemented and enforced through a mitigation and mitigation monitoring program adopted by EID. Those documents also determined that the implementation of these operational and environmental measures would not diminish the quantity or reliability of consumptive water supplies.

Potential impacts to special-status species, sensitive habitat, federally protected wetlands, and other terrestrial and aquatic species associated with existing EID operations of Sly Park Reservoir (the other source of supply) are discussed and addressed in the Final Environmental Assessment (EA) and Mitigated Negative Declaration (MND) for the Transfer of the Sly Unit of the Central Valley Project from the U.S. Bureau of Reclamation (Reclamation) to EID, which was completed in September 2003. The EA/MND determined that the transfer and ongoing operation of Sly Park Reservoir and its associated infrastructure will not have an effect on special status species, riparian habitat, wetlands, migratory fish or wildlife, or local policies and ordinances. Additionally, the EA/MND found that the transfer and ongoing operation of Sly Park Reservoir and its associated infrastructure will have no effect on former Central Valley Project Sly Park Unit (Unit) lands, U.S. Forest Service lands that support Unit facilities, or on the hydrology of Sly Park Creek or Camp Creek. These analyses and conclusions were based upon the premise that EID's maximum consumptive water supplies from Sly Park Reservoir would neither increase nor diminish, but rather continue to be equal to the reservoir's firm yield, which was consistent with both EID's contractual entitlement and EID's actual past purchases when the facilities were under Reclamation's ownership. Although Sly Park Reservoir's actual SWRCB-license water rights authorize a greater supply, EID agreed as part of its environmental commitments to conduct a separate CEQA analysis for the diversion of water greater than the maximum historical amounts up to the State Water Resources Control Board water right license amount.

Existing supplies addressed in the documents referenced above would serve the Rancheria consistent with the MOU between EID and the Rancheria to serve existing uses on the Rancheria. Therefore, there would be no adverse effect on special-status species, sensitive habitat, federally protected wetlands, terrestrial and aquatic species, or adopted mitigation measures in place to protect sensitive habitat and species in the EID service area. These impacts would be less than significant and will not be evaluated in the EIR.

- e,f) Facilities would be installed along Honpie Road in an area of the Rancheria that is primarily surrounded by built uses. Therefore, the proposed project would not conflict with any adopted policies or ordinances protecting biological resources. There are no adopted Habitat Conservation Plans or Natural Community Conservation Plans in the EID service area. Therefore, no impact would occur and this issue will not be evaluated in the EIR.
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## Cultural Resources

### Environmental Checklist and Discussion

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
<b>5. CULTURAL RESOURCES— Would the project:</b>				
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Cause a substantial adverse change in the significance of a unique archaeological resource pursuant to §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### Discussion

- a,b,d) As stated in the Shingle Springs Rancheria Hotel and Casino Project Final EA/FONSI a record search and field survey found no evidence of prehistoric or historic sites and any undiscovered cultural resources found during project construction activities would be protected by the Archeological Resources Protection Act.<sup>15</sup> Because the proposed infrastructure would be installed within the area evaluated in project area evaluated in the Environmental Assessment, impacts to prehistoric and historic resources would be less than significant and cultural resources will not be evaluated in the EIR.
- c) Installation of the pipeline, flow water meter vault and backflow prevention assembly structure would involve ground disturbance and trenching. Underlying geologic materials in the project area consist predominantly of igneous (volcanic) formations and the type of sedimentary deposits where paleontological resources might be present but are typically not found<sup>16</sup>. Therefore, it is unlikely that any paleontological resources would be encountered and this impact would be less than significant and will not be evaluated in the EIR.

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<sup>15</sup> National Indian Gaming Commission, 2001. *Shingle Springs Rancheria Hotel and Casino Project El Dorado County, California, Final Environmental Assessment*, December 2001.

<sup>16</sup> El Dorado County General Plan, 2003. *El Dorado County General Plan Draft Environmental Report El Dorado County, California*, May 2003.

## Geology, Soils, and Seismicity

### Environmental Checklist and Discussion

<u>Issues (and Supporting Information Sources):</u>	<u>Potentially Significant Impact</u>	<u>Less Than Significant with Mitigation Incorporated</u>	<u>Less Than Significant Impact</u>	<u>No Impact</u>
<b>6. GEOLOGY, SOILS, AND SEISMICITY— Would the project:</b>				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Special Publication 42.)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Be located on geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### Discussion

- a-d) El Dorado County does not include any active faults as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map; therefore, proposed infrastructure would not be subject to fault rupture<sup>17</sup>. Regional faults include faults in the Foothill Fault Zone, which includes the Bear Mountain and Melones Fault Zones. The infrastructure would be installed in an area classified in the Uniform Building Code (UBC) as being in a Seismic Zone 3. Areas in Zone 3 are expected to experience major damage with a corresponding magnitude 5.0 - 5.9 earthquake. This would result in very strong ground shaking with negligible damage

<sup>17</sup> El Dorado County General Plan, 2003. *El Dorado County General Plan Draft Environmental Report El Dorado County, California*, May 2003.

in buildings of good design consistent with UBC recommendations for construction in Zone 3 and considerable damage in poorly built or badly designed structures<sup>18</sup>.

Soils underlying the project area are classified as having low shrink-swell (liquefaction) potential and slight to moderate erosion hazard<sup>19</sup>; therefore, liquefaction during a seismic event would be limited, and soil erosion during construction activities would also be limited. Expansive soils are directly related to areas with a high shrink-swell potential and is therefore considered to be low for the project area<sup>20</sup>.

Proposed project installation methods include approximately 2-foot by 6-foot deep trenches that could expose construction workers to adverse effects during a seismic event. In addition, the pipeline, flow meter vault, and backflow prevention assembly structure could be exposed to damage. Installation of proposed project facilities is required to comply with applicable laws and regulations and would use standard engineering practices and best management practices including the California Building Standards Code and guidelines published by the American Water Works Association. Compliance with these rules and regulations would reduce any significant impacts associated with seismic ground shaking, erosion, and/or hazardous soil conditions such as expansive soils, lateral spreading or landslides to less-than-significant. Operational activities include conveyance of water through underground water supply infrastructure and would not exacerbate the risk of exposure to geologic hazards or soil constraints. Therefore, potential impacts associated with geology, soils, and seismicity would be less than significant and will not be evaluated in the EIR.

- e) The project would not include the use of septic tanks or alternative wastewater disposal systems. Therefore, no impact would occur and this issue will not be evaluated in the EIR.
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<sup>18</sup> United States Geological Survey (USGS). 2010. *The Modified Mercalli Intensity Scale*, <http://earthquake.usgs.gov/learn/topics/mercalli.php>. Accessed October 14, 2010.

<sup>19</sup> National Indian Gaming Commission, 2001. *Shingle Springs Rancheria Hotel and Casino Project El Dorado County, California, Final Environmental Assessment*, December 2001.

<sup>20</sup> El Dorado County General Plan, 2003. *El Dorado County General Plan Draft Environmental Report El Dorado County, California*, May 2003.

## Greenhouse Gas Emissions

### Environmental Checklist and Discussion

Issues (and Supporting Information Sources):	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>7. Greenhouse Gas Emissions— Would the project:</b>				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gasses?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

#### Discussion

a,b) Various statewide and local initiatives to reduce California’s contribution to GHG emissions have raised awareness that even though the various contributors to and consequences of global climate change are not yet fully understood, global climate change is occurring, and that there is a real potential for severe adverse environmental, social, and economic effects in the long term. The following is a summary of the various statewide and local initiatives in place in California to address GHG emissions:

- Assembly Bill 1493
- Executive Order S-3-05
- Assembly Bill 32, California Global Warming Solutions Act of 2006
- California Climate Action Registry
- Senate Bill 1368
- Executive Order S-1-07
- Senate Bill 97
- Senate Bills 1078 and 107 and Executive Order S-14-08
- Senate Bill 375
- Climate Change Scoping Plan
- OPR Proposed Amendments to the CEQA Guidelines
- ARB Draft GHG Significance Thresholds

As described in Section 3 – Air Quality, the proposed project would result in less than significant temporary emissions of GHG during the construction phase. Operation of the proposed project would not result in a change in EID operations and project operations would not result in point source GHG emissions through increased consumption of electricity or fossil fuels. Construction related GHG emissions would be intermittent and temporary and would be less than the lower reporting limit for major GHG sources established by



the California Air Resources Board, which includes fossil fuel burning power plants, petroleum refineries, petrochemical plants, and food processing plants<sup>21</sup>. As a result, the proposed project would represent a less-than-significant source of GHGs and would not conflict with the State's ability to implement policies and plans for the purpose of reducing emissions of GHG's. Therefore, the generation of GHG emissions would be less than significant and this issue will not be evaluated in the EIR.

Implementation of the proposed project involves increased water supply service to the Rancheria consistent with the MOU between EID and the Rancheria to serve existing uses on the Rancheria. Water supply and availability to meet the proposed increase in demand could be affected by climate change. Impacts relating to the potential effect of climate change on water supply availability and reliability are potentially significant and will be addressed in the EIR. EID believes that its existing water supply sources are sufficient to meet increased demand in the service area. However, a Water Supply Assessment (WSA) will be prepared as part of this EIR. See Environmental Checklist Item 17d.

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<sup>21</sup> California Air Resources Board, 2008. AB 32 Climate Change Scoping Plan, December 2008.

## Hazards and Hazardous Materials

### Environmental Checklist and Discussion

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
<b>8. HAZARDS AND HAZARDOUS MATERIALS</b>				
<b>Would the project:</b>				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### Discussion

- a-d) Installation of proposed infrastructure could involve the limited use, storage and disposal of small quantities of hazardous materials. The use, storage, and transport hazardous materials would be required to comply with applicable local, state, and federal regulations. Transportation of hazardous materials on area roadways is regulated by California Highway Patrol (CHP) and Caltrans, and use of these materials is regulated by California Department of Toxic Substance Control (DTSC), as outlined in Title 22 of the California Code of Regulations (CCR). Any use or storage of hazardous materials would be required to obtain permits and comply with appropriate regulatory agency standards designed to avoid hazardous waste releases.

The DTSC Hazardous Waste and Substances Sites (Cortese) List is a reporting document used by the state, local agencies, and developers to comply with CEQA requirements in providing information about the location of hazardous materials release sites. The Cortese List is updated at least annually, in compliance with California regulations (California Code Section 65962.5(a)(4)). The Cortese List includes federal superfund sites, state response sites, non-operating hazardous waste sites, voluntary cleanup sites, and school cleanup sites. Based on a review of the Cortese List conducted in October 2010, no listed sites are located within the vicinity of the proposed project.

El Dorado County contains serpentine rock that contains Naturally Occurring Asbestos (NOA) which when broken release asbestos fibers that are considered a human health hazard. However, the project site is outside the identified review areas for NOA as shown on the Asbestos Review Areas Map for the Western Slope of El Dorado County<sup>22</sup>. Because the proposed project is outside identified review areas for NOA, impacts related to the creation of significant hazards to the public through routine, transport, use, disposal, and risk of upset are less than significant and this issue will not be evaluated in the EIR.

- e,f) Project facilities would not be located in a planned or adopted airport land use plan area and the nearest airport facility is the Cameron Air Park, which is located approximately 4.5 miles to the west. Therefore, implementation of the proposed project would not pose a safety hazard with respect to airport or aircraft operations; therefore, no impact would occur and this issue will not be evaluated in the EIR.
- g) The proposed project would not impede or interfere with emergency response or evacuation plans. No impact would occur and this issue will not be evaluated in the EIR.
- h) Fire hazard impacts would be limited to the construction phase of the proposed project through the accidental combustion of flammable vegetation. Federal, State, and local regulations and ordinances, specifically the El Dorado County Fire Hazard Ordinance and the Uniform Fire Code, establish standard construction practices to reduce hazard risks associated with fires. These regulations reduce impacts associated with wildland fires to less-than-significant and this issue will not be evaluated in the EIR.

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<sup>22</sup> El Dorado County, 2005. El Dorado County Asbestos Review Areas Map for the Western Slope of El Dorado County, California. Available online at: [http://www.co.el-dorado.ca.us/Government/AirQualityManagement/Asbestos\\_Maps.aspx](http://www.co.el-dorado.ca.us/Government/AirQualityManagement/Asbestos_Maps.aspx)

## Hydrology and Water Quality

### Environmental Checklist and Discussion

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
<b>9. HYDROLOGY AND WATER QUALITY— Would the project:</b>				
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Substantially alter the existing drainage pattern of a site or area through the alteration of the course of a stream or river, or by other means, in a manner that would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Substantially alter the existing drainage pattern of a site or area through the alteration of the course of a stream or river or, by other means, substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other authoritative flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures that would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Expose people or structures to a significant risk of loss, injury or death involving inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### Discussion

- a,f) Trenching and other earth disturbing activities could expose soils to increase rates of erosion and sediment loading in receiving waters during storm events. However, as discussed under Environmental Checklist Item 6, soils underlying the project area are classified as having slight to moderate erosion hazard. In addition, pollutants that are associated with construction equipment, such as lubricants and fuel, could be released into receiving waters if appropriate management measures are not implemented. As stated under

Environmental Checklist Item 4 the proposed facilities would be installed adjacent to Honpie Road and not in the vicinity of an existing intermittent stream channel. Therefore, it is unlikely that construction activities could result in discharge of sediments or the placement of equipment that could affect the quality of the water of the stream channel. Never the less, the proposed project includes the following environmental commitments to protect receiving water quality:

- Sediment curtains would be placed upstream and downstream of the construction zone to prevent sediment disturbed during trenching activities from being transported and deposited outside of the construction zone.
- Spoil sites such that they do not drain directly into drainages and/or seasonal wetlands. If a spoil site would be located so that they drain into a drainage channel or seasonal wetland, catch basins would be constructed to intercept sediment before it reaches the drainage or wetland. Spoil sites would be covered to reduce the potential for erosion.
- Equipment and materials would be stored away from the drainages and wetland areas. No debris shall be deposited within 25 feet of the drainages and wetland areas.

As a result, potential impacts to receiving water quality associated with installation of the proposed infrastructure would be less than significant and will not be evaluated in the EIR.<sup>14</sup>

- b) The proposed project involves providing water service to the Shingle Springs Rancheria consistent with the MOU between EID and the Rancheria using surface water supplies to serve existing uses on the Rancheria. Groundwater is not a supply source in the EID service area. Therefore, the proposed project would not deplete groundwater supplies.

Proposed facilities include the installation of an underground pipeline, flow meter vault, and backflow prevention assembly structure on the Rancheria to connect with EID's existing water supply infrastructure. No new water supply infrastructure would be installed in the EID service area outside of the Rancheria. Installation of the proposed facilities would not result in a noticeable increase in impervious surface cover over that which currently exists, and would not noticeable reduce the rate or amount of groundwater recharge. Therefore, impacts associated with groundwater are less-than-significant and will not be evaluated in the EIR.

- c,d,e) Proposed facilities include the installation of an underground pipeline, flow meter vault, and backflow prevention assembly structure on the Rancheria to connect with EID's existing water supply infrastructure. No new water supply infrastructure would be installed in the EID service area outside of the Rancheria. Installation of the proposed facilities would not result in a noticeable increase in impervious surface cover over that which currently exists, and therefore, would not noticeably change the rate or amount of surface runoff. Because the infrastructure would be mostly underground, it would also not be anticipated to alter existing drainage patterns or result in associated increased rates of erosion or

flooding.<sup>23</sup> Therefore, impacts associated with the changes in the rate, volume and pattern of runoff are less-than-significant and will not be evaluated in the EIR.

- g,h,i) The proposed project would not include the construction of any structures or facilities in a designated flood hazard area therefore, no structures or persons would be exposed to risks associated with flood events. No impact would occur and this issue will not be evaluated in the EIR.
  - j) No new habitable structures or facilities would be constructed as part of the proposed project; therefore, no structures or persons would be exposed to risks associated with inundation by seiche, tsunami or mudflow. No impact would occur and this issue will not be evaluated in the EIR.
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<sup>23</sup> The proposed construction activities actually occurred in 2008 (see project description). Under regulations applicable at the time of construction, activities of this magnitude and character did not require the filing of a Notice of Intent to obtain coverage under the National Pollution Discharge Elimination System (NPDES) Permit for the Discharges of Stormwater Associated with Construction Activities (NPDES General Stormwater Permit), nor compliance with the terms of the NPDES General Stormwater Permit. Regulatory changes effective July 1, 2010 would require NOI filing and NPDES General Stormwater Permit compliance if the construction activities were conducted today, imposing additional measures to reduce potential impacts to receiving water quality.

## Land Use and Land Use Planning

### Environmental Checklist and Discussion

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
<b>10. LAND USE AND LAND USE PLANNING—</b>				
<b>Would the project:</b>				
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

#### ***Discussion***

a) Proposed facilities include the installation of an underground pipeline, flow meter vault, and backflow prevention assembly structure on the Rancheria to connect with EID’s existing water supply infrastructure. No new water supply infrastructure would be installed in the EID service area outside of the Rancheria. Therefore, the proposed project would not physically divide an established community. No impact would occur and this issue will not be evaluated in the EIR.

b) Proposed facilities include the installation of an underground pipeline, flow meter vault, and backflow prevention assembly structure on the Rancheria to connect with EID’s existing water supply infrastructure. No new water supply infrastructure would be installed in the EID service area outside of the Rancheria. The Rancheria is held in trust for the Shingle Springs Band of Miwok Indians by the federal government, and therefore physical improvements on the Rancheria are not subject to El Dorado County land use jurisdiction. Land use on the Rancheria is governed by the Tribal Land Use Plan. The proposed project is consistent with the Tribal Land Use Plan.

Implementation of the proposed project also involves increased water supply service to the Rancheria consistent with the MOU between EID and the Rancheria to serve existing uses on the Rancheria.

In response to the Court’s ruling, the proposed project includes obtaining a LAFCO decision removing any conditions that might limit water service to anything different or less than the MOU proposes to allow. If LAFCO makes such a decision, its approval would make the MOU consistent with existing and adopted plans.

Additionally, as described under Environmental Checklist Item 8e, there are no planned or adopted airport land use plans applicable to where the proposed infrastructure would

be installed. As a result, there would be no impact to existing land use plans and policies and this issue will not be evaluated in the EIR.

- c) As discussed under Environmental Checklist Item 4f there are no adopted Habitat Conservation Plans or Natural Community Conservation Plans in the EID service area. Therefore, no impact would occur and this issue will not be evaluated in the EIR.



## Mineral Resources

### Environmental Checklist and Discussion

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
<b>11. MINERAL RESOURCES—Would the project:</b>				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

#### **Discussion**

- a,b) Proposed facilities include the installation of an underground pipeline, flow meter vault, and backflow prevention assembly structure on the Rancheria to connect with EID’s existing water supply infrastructure. No new water supply infrastructure would be installed in the EID service area outside of the Rancheria. As stated in the Shingle Springs Rancheria Hotel and Casino Project Final EA/FONSI no known mineral resources are known to occur in the hotel and casino study area. <sup>24</sup>Because the proposed infrastructure would be installed within the area evaluated in the Environmental Assessment, the proposed project would not involve activities that could result in the loss of available mineral resources. No impact would occur and this issue will not be evaluated in the EIR.
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<sup>24</sup> National Indian Gaming Commission, 2001. Shingle Springs Rancheria Hotel and Casino Project El Dorado County, California, Final Environmental Assessment, December 2001.

## Noise

### Environmental Checklist and Discussion

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
<b>12. NOISE—Would the project:</b>				
a) Result in exposure of persons to, or generation of, noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Result in exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) For a project located within an airport land use plan area, or, where such a plan has not been adopted, in an area within two miles of a public airport or public use airport, would the project expose people residing or working in the area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project located in the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### Discussion

a-d) As described in the Shingle Springs Rancheria Hotel and Casino Project Final EA/FONSI noise levels in the vicinity of the proposed infrastructure are dominated by vehicle noise from Highway 50.<sup>25</sup> Increases in noise attributed to activities associated with installation of the proposed infrastructure would be short-term and would occur in an area dominated by vehicle noise and with limited sensitive receptors. In addition, project installation would not require impact pile driving or the use of other equipment that would generate excessive groundborne vibration beyond standard construction practices. Therefore, increases in short-term construction noise would be less than significant and this issue will not be evaluated in the EIR.

There are no new mechanical or electrical facilities proposed that would result in operational noise increases above existing conditions. Therefore, no impact would occur and permanent increases in noise levels will not be evaluated in the EIR.

e,f) No new facilities or occupied structures would be constructed that could expose people to excessive noise levels associated with airport operations. As discussed in Environmental

<sup>25</sup> National Indian Gaming Commission, 2001. Shingle Springs Rancheria Hotel and Casino Project El Dorado County, California, Final Environmental Assessment, December 2001.

Checklist Item 8e the closest airport is located approximately 4.5 miles to the west. Therefore, no impact would occur and this issue will not be evaluated in the EIR.

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## Population and Housing

### Environmental Checklist and Discussion

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
<b>13. POPULATION AND HOUSING— Would the project:</b>				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Displace substantial numbers of existing housing units, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

#### **Discussion**

- a) The proposed project involves providing water service to the Shingle Springs Rancheria consistent with the MOU between EID and the Rancheria to serve existing uses on the Rancheria. Proposed facilities include the installation of an underground pipeline, flow meter vault, and backflow prevention assembly structure on the Rancheria to connect with EID's existing water supply infrastructure. No new water supply infrastructure would be installed in the EID service area outside of the Rancheria and EID operations would remain unchanged. Lands neighboring the Rancheria are fully subdivided and zoned for residential use only. On the Rancheria, there could be minor additional residential development served by the project. The exact amount would depend on and be consistent with the Tribal Land Use Plan. This is considered a less than significant impact and will not be evaluated in the EIR.
- b,c) The proposed project involves the installation and operation of an underground pipeline, flow meter vault, and backflow prevention assembly structure on the Rancheria and conveyance of water through these facilities. It would not result in the displacement of housing or people to accommodate construction of the project. Therefore, no impact would occur and this issue will not be evaluated in the EIR.

## Public Services

### Environmental Checklist and Discussion

<u>Issues (and Supporting Information Sources):</u>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
<b>14. PUBLIC SERVICES— Would the project:</b>				
a) Result in substantial adverse physical impacts associated with the provision of, or the need for, new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the following public services:				
i) Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii) Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
v) Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

#### **Discussion**

a.i - v) The proposed project involves providing water service to the Shingle Springs Rancheria consistent with the MOU between EID and the Rancheria to serve existing uses on the Rancheria. Proposed facilities include the installation of an underground pipeline, flow meter vault, and backflow prevention assembly structure on the Rancheria to connect with EID's existing water supply infrastructure. No new water supply infrastructure would be installed in the EID service area outside of the Rancheria and EID operations would remain unchanged. The proposed project would not include the construction of any permanent occupied structures. Therefore, it would not generate new population that could result in the need to provide additional public services the construction of which could cause physical environmental impacts. No impact would occur and these issues will not be evaluated in the EIR.

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## Recreation

### Environmental Checklist and Discussion

<u>Issues (and Supporting Information Sources):</u>	<u>Potentially Significant Impact</u>	<u>Less Than Significant with Mitigation Incorporated</u>	<u>Less Than Significant Impact</u>	<u>No Impact</u>
<b>15. RECREATION—Would the project:</b>				
a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facilities would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

#### **Discussion**

- a,b) The proposed project involves providing water service to the Shingle Springs Rancheria consistent with the MOU between EID and the Rancheria to serve existing uses on the Rancheria. Proposed facilities include the installation of an underground pipeline, flow meter vault, and backflow prevention assembly structure on the Rancheria to connect with EID’s existing water supply infrastructure. No new water supply infrastructure would be installed in the EID service area outside of the Rancheria and EID operations would remain unchanged. The proposed project would not include the construction of any permanent occupied structures. Therefore, it would not generate new population that could result in the need to provide new or improved recreational facilities the construction of which could cause physical environmental impacts. No impact would occur and these issues will not be evaluated in the EIR.

## Transportation and Traffic

### Environmental Checklist and Discussion

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
<b>16. TRANSPORTATION AND TRAFFIC—</b>				
<b>Would the project:</b>				
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location, that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

#### **Discussion**

a,b,f) Proposed facilities include the installation of an underground pipeline, flow meter vault, and backflow prevention assembly structure on the Rancheria to connect with EID's existing water supply infrastructure. No new water supply infrastructure would be installed in the EID service area outside of the Rancheria and EID operations would remain unchanged. Proposed project facilities would be maintained on a routine maintenance schedule by existing EID staff and would not result in an increase in vehicle trips associated with project operations.

The installation of proposed underground pipeline and flow meter vault would involve open trench installation and backfilling of soils. The trench dimensions are estimated to be 2-foot wide by 6-foot deep for the pipeline and 5-foot by 7-foot for the flow meter vault. A backflow prevention assembly structure would also be constructed adjacent to Hornpie Road. The construction phase would occur over approximately 20 to 27 days. The number of vehicles used during the construction phase would be minimal due to the limited size of the proposed infrastructure. As a result, the percent increase in traffic volumes caused by

project-generated construction traffic on the roadways in the project area would not be anticipated to be substantial (falling within the daily fluctuations of traffic volumes). The number of project-generated truck trips would not be high, would be dispersed throughout the work day lessening the effect on traffic conditions in any one hour, and would only occur during the course of project construction. As a result construction vehicle trips would be limited and short-term in duration, and would not be anticipated to have a noticeable effect on the level of service of roadways off the Rancheria. Therefore, increases in vehicle trips during construction would not conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system or conflict with an applicable congestion management program or public transit program. This impact is less than significant and will not be evaluated in the EIR.

- c) The proposed project involves the construction of an underground pipeline, flow meter vault, and backflow prevention assembly structure on the Rancheria and the conveyance of water through these facilities. Therefore, the proposed project would not result in a change in air traffic patterns that could cause a safety risk. No impact would occur and this impact will not be evaluated in the EIR.
  
  - d,e) The proposed project involves the construction of an underground pipeline, flow meter vault, and backflow prevention assembly structure on the Rancheria and conveyance of water through these facilities. Therefore, the proposed project would not increase road hazards due to design features, incompatible uses or emergency access. No impact would occur and this issue will not be evaluated in the EIR.
-



## Utilities and Service Systems

### Environmental Checklist and Discussion

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
<b>17. UTILITIES AND SERVICE SYSTEMS—Would the project:</b>				
a) Conflict with wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities, or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Require new or expanded water supply resources or entitlements?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Result in a determination by the wastewater treatment provider that would serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

#### **Discussion**

- a,b,e) The proposed project involves providing water service to the Shingle Springs Rancheria consistent with the MOU between EID and the Rancheria to serve existing uses on the Rancheria. Proposed facilities include the installation of an underground pipeline, flow meter vault, and backflow prevention assembly structure on the Rancheria to connect with EID's existing water supply infrastructure. No new water supply infrastructure would be installed in the EID service area outside of the Rancheria and EID operations would remain unchanged. The proposed project would not include the construction of any permanent occupied structures. Therefore, it would not directly generate new population that could result in the need to provide additional wastewater collection, treatment and disposal facilities or water treatment facilities, the construction of which could cause significant environmental effects. No impact would occur and these issues will not be evaluated in the EIR.
- c) Proposed facilities include the installation an underground pipeline, flow meter vault, and backflow prevention assembly structure on the Rancheria to connect with EID's existing water supply infrastructure. No new water supply infrastructure would be installed in the EID service area outside of the Rancheria and EID operations would be unchanged. Installation of the facilities would not result in a noticeable increase in impervious surface

cover over that which currently exists, and therefore, would not noticeably change the rate or amount of surface runoff and would not require new or expanded storm water drainage facilities, the construction of which could cause significant environmental effects. No impact would occur and this issue will not be evaluated in the EIR.

- d) The proposed project involves providing water service to the Shingle Springs Rancheria consistent with the MOU between EID and the Rancheria to serve existing uses on the Rancheria. EID's believes its existing reliable supplies are sufficient to accommodate the amount of water identified in the MOU. In response to the Court's ruling, however, the District has determined that it will prepare a comprehensive and conservative analysis of the project's potential impact on EID's ability to meet existing and future water demand during normal, single-dry and multiple-dry years, both on the Rancheria and in the EID service area outside of the Rancheria, and, further, that it will do so as part of an EIR. Therefore, for the purpose of determining which impacts to evaluate in an EIR, this impact is deemed to be potentially significant. Further studies, including a WSA, will evaluate whether the MOU will significantly affect the environment by requiring new or expanded water supply resources, and, if so, whether those impacts can feasibly be mitigated.
- f,g) The proposed project would not include the construction of any permanent occupied structures. Therefore, it would not directly generate new population that could generate additional solid waste disposal needs. No impact would occur and this issue will not be evaluated in the EIR.
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## Mandatory Findings of Significance

<i>Issues (and Supporting Information Sources):</i>	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporated</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
<b>MANDATORY FINDINGS OF SIGNIFICANCE—Would the project:</b>				
a) Have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Have impacts that would be individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Have environmental effects that would cause substantial adverse effects on human beings, either directly or indirectly?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### Discussion

- a) As described in Environmental Checklist Item 4 the proposed project would not have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, or reduce the number or restrict the range of a rare or endangered plant or animal. The proposed project includes measures to protect receiving water quality and nesting raptors. As discussed in Environmental Checklist Item 5 implementation of the proposed project would not eliminate important examples of the major periods of California history or prehistory. Therefore, these impacts would be less than significant and they will not be evaluated in the EIR.
- b) As described in Environmental Checklist Item 17d (Utilities and Service Systems), the proposed project involves providing water service to the Shingle Springs Rancheria consistent with the MOU between EID and the Rancheria to serve existing uses on the Rancheria. Approving and executing the MOU could affect the EID’s ability to meet existing and future water demand during normal, single-dry and multiple-dry years both on the Rancheria and in the EID service area outside of the Rancheria, but this potential is no different than if EID allocates this water to other uses, since the water committed under the MOU is within EID’s existing reliable supplies. EID believes that its existing water supply sources are sufficient to meet increased demand in the service area. However, a Water Supply Assessment (WSA) will be prepared as part of this EIR. See Checklist Item 17d. Cumulative impacts related to EID’s ability to meet existing and future water demand on the Rancheria and in the EID service area outside of the Rancheria will be evaluated in the EIR. All other resources

areas have been determined to be less-than-significant and associated cumulative impacts may not be evaluated in the EIR.

- c) As described in Environmental Checklist Item 17d (Utilities and Service Systems), the proposed project would involve providing water service to the Shingle Springs Rancheria consistent with the MOU between EID and the Rancheria to serve existing uses on the Rancheria. Although EID's existing reliable supplies are sufficient to accommodate the amount of water identified in the MOU, the District has determined in response to the Court's ruling that it will prepare an EIR containing a comprehensive and conservative analysis of the impact of EID's ability to meet existing and future water demand during normal, single-dry and multiple-dry years, both on the Rancheria and in the EID service area outside of the Rancheria. Therefore, for the purpose of determining which impacts to evaluate in an EIR, this impact is deemed to be potentially significant. Further studies, including a WSA, will evaluate whether the MOU will significantly affect the environment by requiring new or expanded water supply resources, and, if so, whether those impacts can feasibly be mitigated.
-

# Appendix B

## Comments in Response to the Notice of Preparation





JERRY BROWN  
GOVERNOR

STATE OF CALIFORNIA  
GOVERNOR'S OFFICE of PLANNING AND RESEARCH  
STATE CLEARINGHOUSE AND PLANNING UNIT



Notice of Preparation

February 11, 2011

To: Reviewing Agencies

Re: Memorandum of Understanding for Water Service to the Shingle Springs Rancheria  
SCH# 2011022045

Attached for your review and comment is the Notice of Preparation (NOP) for the Memorandum of Understanding for Water Service to the Shingle Springs Rancheria draft Environmental Impact Report (EIR).

Responsible agencies must transmit their comments on the scope and content of the NOP, focusing on specific information related to their own statutory responsibility, within 30 days of receipt of the NOP from the Lead Agency. This is a courtesy notice provided by the State Clearinghouse with a reminder for you to comment in a timely manner. We encourage other agencies to also respond to this notice and express their concerns early in the environmental review process.

Please direct your comments to:

**Dan Corcoran**  
El Dorado Irrigation District  
2890 Mosquito Road  
Placerville, CA 95667

with a copy to the State Clearinghouse in the Office of Planning and Research. Please refer to the SCH number noted above in all correspondence concerning this project.

If you have any questions about the environmental document review process, please call the State Clearinghouse at (916) 445-0613.

Sincerely,

A handwritten signature in black ink that reads "Scott Morgan".

Scott Morgan  
Director, State Clearinghouse

Attachments  
cc: Lead Agency

**Document Details Report  
State Clearinghouse Data Base**

**SCH#** 2011022045  
**Project Title** Memorandum of Understanding for Water Service to the Shingle Springs Rancheria  
**Lead Agency** El Dorado Irrigation District

**Type** NOP Notice of Preparation  
**Description** The proposed project involves EID providing water service to the Shingle Springs Rancheria consistent with the MOU to serve existing uses on the Rancheria, the relocation of an existing flow meter vault, and the installation of a new pipeline on the Rancheria to connect with EID's existing water supply infrastructure.  
 The meter would provide maximum continuous flow of 95 gpm and a maximum average daily delivery of 135,000 gallons.

**Lead Agency Contact**

**Name** Dan Corcoran  
**Agency** El Dorado Irrigation District  
**Phone** (530) 642-4082 **Fax**  
**email**  
**Address** 2890 Mosquito Road  
**City** Placerville **State** CA **Zip** 95667

**Project Location**

**County** El Dorado  
**City**  
**Region**  
**Cross Streets** Honpie Road  
**Lat / Long** 38° 41' 38" N / 120° 54' 06" W  
**Parcel No.** 31910037  
**Township** 10N **Range** 10E **Section** 29 **Base**

**Proximity to:**

**Highways** Hwy 50  
**Airports**  
**Railways**  
**Waterways** Slate Creek  
**Schools** Buckeye ES, California Montessori Project  
**Land Use** Tribal Land

**Project Issues** Water Supply; Cumulative Effects

**Reviewing Agencies** Resources Agency; Department of Parks and Recreation; Department of Water Resources; Department of Fish and Game, Region 2; CA Department of Public Health; Native American Heritage Commission; California Highway Patrol; Caltrans, District 3; State Water Resources Control Board, Division of Financial Assistance; State Water Resources Control Board, Division of Water Rights; Department of Toxic Substances Control; Regional Water Quality Control Bd., Region 5 (Sacramento); California Department of Justice, Attorney General's Office

**Date Received** 02/11/2011 **Start of Review** 02/11/2011 **End of Review** 03/14/2011

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County: El Dorado

WMO

Resources Agency	Caltrans, District 8 Dan Kopulsky	Caltrans, District 9 Gayle Rosander	Caltrans, District 10 Tom Dumas	Caltrans, District 11 Jacob Armstrong	Caltrans, District 12 Chris Herre	CalEPA	Air Resources Board	Airport Projects Jim Lerner	Transportation Projects Douglas Ito	Industrial Projects Mike Tollstrup	State Water Resources Control Board Regional Programs Unit Division of Financial Assistance	State Water Resources Control Board Student Intern, 401 Water Quality Certification Unit Division of Water Quality	State Water Resources Control Board Steven Herrera Division of Water Rights	Dept. of Toxic Substances Control CEQA Tracking Center	Department of Pesticide Regulation CEQA Coordinator
Resources Agency Nadell, Gayou	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dept. of Boating & Waterways Mike Solelo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
California Coastal Commission Elizabeth A. Fuchs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Colorado River Board Gerald R. Zimmerman	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dept. of Conservation Rebecca Salazar	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Cal Fire Allen Robertson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Central Valley Flood Protection Board James Herola	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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California Department of Resources, Recycling & Recovery Sue O'Leary	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
S.F. Bay Conservation & Dev't. Comm. Steve McAdam	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Native American Heritage Comm. Debbie Treadway	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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State Lands Commission Marina Brand	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tahoe Regional Planning Agency (TRPA) Cherry Jacques	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Business, Trans & Housing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Caltrans - Division of Aeronautics Philip Crimmins	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Office of Special Projects Housing & Community Development CEQA Coordinator Housing Policy Division	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Caltrans, District 2 Marcelino Gonzalez	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Caltrans, District 3 Bruce de Terra	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Other Sara Drake, AGS Office

Last Updated on 01/10/11



**DEPARTMENT OF TRANSPORTATION**

DISTRICT 3—SACRAMENTO AREA OFFICE

2379 GATEWAY OAKS DRIVE, SUITE 150

PHONE (916) 274-0635

FAX (916) 274-0602

TTY 711

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March 09, 2011

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Memorandum of Understanding for Water Service to the Shingle Springs Rancheria

Notice of Preparation

SCH# 2011022045

Mr. Dan Corcoran  
El Dorado Irrigation District  
2890 Mosquito Road  
Placerville, CA 95667

Dear Mr. Corcoran,

Thank you for the opportunity to review and comment on the Notice of Preparation (NOP) for the Memorandum of Understanding for Water Service to the Shingle Springs Rancheria draft Environmental Impact Report (EIR). The El Dorado Irrigation District (EID) proposes providing water service to the Shingle Springs Rancheria consistent with the MOU to serve existing uses on the Rancheria, the relocation of an existing flow meter vault, and the installation of a new pipeline on the Rancheria to connect with EID's existing water supply infrastructure. Our comments are as follows:

- Caltrans requests that you identify any work proposed within the State right-of-way. Any work proposed and performed within the State right-of-way must be in accordance with Caltrans' standards and require a Caltrans Encroachment Permit prior to commencing construction, surveying or other activities in the right-of-way. For more information on encroachment permits, the requirements, and an application form, please visit our web page at [www.dot.ca.gov/doingbusiness](http://www.dot.ca.gov/doingbusiness) and click on "Encroachment Permits" or contact the Caltrans District 3, Office of Permits at (530) 741-4403.
- Caltrans requests that you identify any potential increases to any surface water or peak runoff discharge within the State right-of-way. No net increase to the surface water (stormwater) peak runoff discharge (100-year storm event) may be realized within the State right-of-way or Caltrans drainage facilities. Increases in peak runoff discharge to the State's highway right-of-way and to Caltrans' highway drainage facilities must be reduced to at or below the pre-construction levels. Whether discharged directly or indirectly, all runoff must meet all Regional Water Quality Control Board (RWQCB) water quality standards prior to entering the State right-of-way or Caltrans drainage facilities. The proponent/developer may be held liable for future damages caused by diverted or increased drainage flows determined to be the result of the proposed development/project that were not properly mitigated.

Mr. Dan Corcoran  
March 09, 2011  
Page 2

Please provide our office with the upcoming DEIR. If you have any questions regarding these comments, please contact Sadie Smith at (530) 741-4004 or [sadie\\_smith@dot.ca.gov](mailto:sadie_smith@dot.ca.gov).

Sincerely,

A handwritten signature in cursive script, appearing to read "Eric Fredericks".

ERIC FREDERICKS, Chief  
Office of Transportation Planning – South

STATE OF CALIFORNIA

Edmund G. Brown Jr., *Governor*

**NATIVE AMERICAN HERITAGE COMMISSION**

915 CAPITOL MALL, ROOM 364  
SACRAMENTO, CA 95814  
(916) 653-4082  
Fax (916) 657-5390



February 22, 2011

Dan Corcoran  
El Dorado Irrigation District  
2890 Mosquito Road  
Placerville, CA 95667

RE: Memorandum of Understanding for Water Service to the Shingle Springs Rancheria; El Dorado County. SCH# 2011022045.

Dear Mr. Corcoran:

The Commission has reviewed the above mentioned Memorandum of Understanding for Water Service to the Shingle Springs Rancheria; El Dorado and does not have any comments.

Sincerely,

A handwritten signature in cursive script that reads "Katy Sanchez".

Katy Sanchez  
Program Analyst



## SHINGLE SPRINGS RANCHERIA

SHINGLE SPRINGS BAND OF MIWOK INDIANS  
SHINGLE SPRINGS RANCHERIA  
(VERONA TRACT), CALIFORNIA  
5281 HONPIE ROAD, PLACERVILLE, CA 95667  
P.O. BOX 1340, SHINGLE SPRINGS, CA 95682  
(530) 646-8010 OFFICE, (530) 676-8033 FAX

February 19, 2011

Mr. Dan Corcoran  
Environmental Manager  
El Dorado Irrigation District  
2890 Mosquito Road  
Placerville, CA 95667

Re: Memorandum of Understanding for Water Service to the Shingle Springs  
Rancheria

Dear Mr. Corcoran:

I am writing, on behalf of the Shingle Springs Band of Miwok Indians (the "Tribe"), to confirm that the Tribe is not aware of any reasonably-foreseeable, probable future projects related to the above-cited agreement. Nor is the Tribe aware of any proposals to change the use of tribal land in reliance on the above-cited agreement.

Please do not hesitate to contact the Tribe if you need any additional information.

Sincerely,

Nicholas Fonseca  
Chairman