

State Water Resources Control Board

January 31, 2025

RE: Comments and Further Direction Regarding Administrative Draft Of Recirculated Environmental Impact Report

TO ALL PARTIES:

The Administrative Hearing Office (AHO) has reviewed the portions of the Administrative Recirculated Draft Environmental Impact Report (DEIR) provided on December 18, 2024, and has the following initial comments and direction.

Environmental Baseline

The AHO is considering whether it should exercise the discretion available to a lead agency under the California Environmental Quality Act (CEQA) to use an environmental baseline that excludes El Sur Ranch's currently unauthorized diversions. (See Cal. Code Regs., tit. 14, § 15125, subd. (a)(2).) The parties shall file status conference statements by **March 21, 2025**, addressing, with appropriate citations to legal authority, whether the incorporation of El Sur Ranch's unauthorized diversions into the environmental baseline is either "misleading or without informative value to decision-makers and the public." (*Ibid.*)

Division of Safety of Dams Jurisdiction

El Sur Ranch shall send a letter to the Division of Safety of Dams (DSOD) by February 14, 2025, describing the proposed reservoir and requesting confirmation that, pursuant to Water Code section 6004, the proposed reservoir is not a jurisdictional dam subject to regulation by DSOD. El Sur Ranch shall submit a copy of the letter to the AHO and the service list by February 17, 2025, and shall submit DSOD's response to the AHO and service list within 72 hours of receipt.

Swiss Canyon

Page 2-R.2-9 (pdf page 25) indicates that approximately 19 acres of the proposed Place of Use located within Swiss Canyon is included in the Project's irrigation requirement calculations. The Applicant states that Swiss Canyon is not directly irrigated; instead, the area receives incidental seepage from adjacent irrigated areas. The AHO has tentatively concluded that Swiss Canyon should not be included in the irrigation requirement calculations because it receives only incidental flows of water already

applied to, and accounted for in the demand calculations of, other areas of the place of use. The AHO invites the parties to brief this issue in the status conference statements to be submitted by March 21, 2025.

Project Alternatives

The AHO has tentatively concluded that the DEIR should consider and evaluate an alternative where diversions authorized by the water right Permit are limited to a maximum annual water use of 2.5 acre-feet per acre, or approximately 615 acre-feet per year based on the proposed 246 irrigated acres. (See Water Code, § 1004; El Sur Ranch Hearing: Ruling Letter on the Applicability of Water Code section 1004 and Procedural Directive to the Applicant (Apr. 15, 2020).) The AHO invites the parties to brief this issue in the status conference statements to be submitted by March 21, 2025.

The parties' deadline to submit comments on the DEIR remains February 24, 2025. The AHO will circulate additional initial comments by 5:00 p.m. by March 17, 2025.

Sincerely,

/s/ Sam Bivins

Sam Bivins
Senior Hearing Officer
Administrative Hearings Office
State Water Resources Control Board

Attachment – Service List

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