

September 29, 2023

TO: San Joaquin Area Flood Control Agency

FROM: Chris Elias, Executive Director

SUBJECT: **ADOPT A RESOLUTION CERTIFYING THE FINAL SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT (SEIR) AND ADOPTING FINDINGS OF FACT, STATEMENT OF OVERRIDING CONSIDERATIONS, MITIGATION AND MONITORING AND REPORTING PROGRAM AND APPROVE THE LOWER SAN JOAQUIN RIVER REACH TS_30_L LEVEE IMPROVEMENT, SAN JOAQUIN COUNTY, CALIFORNIA PROJECT**

RECOMMENDATIONS

It is recommended for the Board of Directors of the San Joaquin Area Flood Control Agency (SJAFCA) to:

1. Consider the Potential Environmental Effects of the Lower San Joaquin River Reach TS_30_L Levee Improvement, San Joaquin County, California Project;
2. Adopt a Resolution (Attachment 1 to Staff Report) Certifying the Final Supplemental Environmental Impact Report (SEIR) for the Lower San Joaquin River Reach TS_30_L Levee Improvement, San Joaquin County, California Project (Attachment A to Staff Report – linked to SJAFCA website via cover page);
3. Adopt the Findings of Fact and Statement Overriding Considerations for the Approval of Lower San Joaquin River Reach TS_30_L Levee Improvement, San Joaquin County, California Project (Attachment A to the Final SEIR);
4. Adopt the Mitigation Monitoring and Reporting Program (Appendix A to the Final SEIR);
5. Approve the Lower San Joaquin River Reach TS_30_L Levee Improvement, San Joaquin County, California Project; and
6. Delegate authority to the Executive Director to execute the Notice of Determination (Attachment 2 to Staff Report)

SUMMARY

The Lower San Joaquin River Reach TS_30_L Levee Improvement is a component of the larger San Lower San Joaquin County, California Project which is a partnership effort between the United States Army Corps of Engineers (USACE), the Central Valley Flood Protection Board (CVFPB), the Department of Water Resources (DWR), and SJAFCA. USACE is the National Environmental Policy Act (NEPA) lead agency, and SJAFCA is the California Environmental Quality Act (CEQA) lead agency for the Lower San Joaquin River Reach TS_30_L Levee Improvement, San Joaquin County, California Project. To fully analyze the potential environmental impacts of the TS_30_L Project, SJAFCA has prepared a Supplemental EIR which fully evaluated the potential environmental impacts of the TS_30_L Project according to NEPA and CEQA requirements. The Supplemental EIR is comprised of: (1) a description of the existing environmental resources in the project area; (2) an

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evaluation of the potentially significant environmental impacts of the no action alternative and the proposed action alternative; and (3) proposed measures to avoid, minimize, or mitigate potentially significant environmental impacts to a less-than-significant level where feasible.

PROJECT LOCATION

The Delta Front levee improvements are the first to be constructed in the San Joaquin River Basin, Lower San Joaquin River, California Project. The Tenmile Slough (TS_30_L) Levee Improvement Project is approximately 5,900 feet (1.1 miles) long and separates the Brookside residential development (landside) on the east and the Wright Elmwood Tract (waterside) on the west. It is bounded on the south by West March Lane and on the north by White Slough.



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PROJECT DESCRIPTION

The main components of the Lower San Joaquin River Reach TS30L Levee Improvement, San Joaquin County, California Project includes the following:

- Construction of a 3,450 linear foot soil bentonite (SB) slurry cutoff wall to mitigate under-seepage from Station (STA) 1+00 to STA 61+00.
- Levee reshaping (2.5H:1V to 3.5H:1V slopes) to mitigate instability from STA 1+00 to STA 61+00.
- Placement of crushed rock (3 inch thick) along the levee landside slope (East) up to the top of levee.
- Placement of rock slope protection (Riprap 2 foot thick) along the waterside slope (West) up to the top of levee.
- Development of two stockpile and staging areas one immediately adjacent to the north side of the Project site and the another at the northwest corner of March Lane and Riverbrook Drive intersection.

PREVIOUS APPROVALS

The Record of Decision for the Final LSJR FR/EIS/EIR was released by USACE, as the federal lead agency, on February 8, 2019. The SJAFCA Board of Directors certified the document as the California Environmental Quality Act (CEQA) lead agency on November 8, 2018 (SCH No. 2010012027). USACE conducted formal consultation on Alternative 7a with the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS), receiving Biological Opinions from USFWS on June 13, 2016 (08ESMF00-2015-F-0206) and from NMFS on June 7, 2016 (WCR-2015-3809). For the National Historic Preservation Act Section 106 Consultation, a Programmatic Agreement for Alternative 7a was signed by USACE on May 11, 2016, in coordination with the State Historic Preservation Officer, CVFPB, and SJAFCA. Alternative 7a was also found to be the Least Environmentally Damaging Practicable Alternative under the Clean Water Act. Alternative 7a was authorized for construction in America's Water Infrastructure Act of 2018 (P.L. 115-270).

PROJECT BACKGROUND

This Final Supplemental Environmental Impact Report (Final SEIR) is a supplement to the San Joaquin River Basin, Lower San Joaquin River (LSJR) Integrated Interim Feasibility Report/ Environmental Impact Statement/Environmental Impact Report (State Clearinghouse No. 2010012027), which was prepared by the San Joaquin Area Flood Control Agency (SJAFCA), Central Valley Flood Protection Board (CVFPB), and U.S. Army Corps of Engineers (USACE). SJAFCA served as the lead agency under the California Environmental Quality Act (CEQA) for that previous Environmental Impact Report (EIR), which was certified by the SJAFCA Board of Directors on November 8, 2018, and is referred to in this Final SEIR as the "2018 LSJR FR/EIS/EIR." This Final SEIR incorporates the 2018 LSJR FR/EIS/EIR by reference, which can be found in full at: https://www.spk.usace.army.mil/lower_sj_river/. The Department of Water Resources (DWR) and

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CVFPB are responsible agencies under the California Environmental Quality Act (CEQA) for this Final SEIR.

The purpose of the 2018 LSJR FR/EIS/EIR was to investigate the extent of federal interest in a range of alternative plans to reduce flood risk in the cities of Stockton, Lathrop, and Manteca, as well as surrounding urbanizing areas. The objectives were to meet the requirements of California Senate Bill (SB) 5 of 2007, the Central Valley Flood Improvement Act, to achieve a 200-year level of protection for urban and urbanizing areas, focusing on a reduction of flood risk in the City of Stockton.

The 2018 LSJR FR/EIS/EIR considered nine (9) alternative plans aimed at reducing flood risk in the City of Stockton and surrounding urbanizing areas. The 2018 LSJR FR/EIS/EIR described a suite of structural levee improvement measures under the various alternatives and, as a joint NEPA/CEQA document, analyzed the alternatives' potential impacts on the following resource areas: Geology and Geomorphology, Seismicity, Soils and Mineral Resources, Hydrology and Hydraulics, Water Quality, Groundwater, Wetlands and Other Waters of the United States, Air Quality and Greenhouse Gas Emissions, Vegetation, Wildlife, Fisheries, Special-Status Species, Socioeconomics and Environmental Justice, Land Use, Transportation, Utilities and Public Services, Recreation, Aesthetics, Noise, Public Health and Environmental Hazards, and Cultural Resources (including Tribal Cultural Resources).

The 2018 LSJR FR/EIS/EIR identified Alternative 7a as the recommended alternative. The LSJR Reach TS_30_L Levee Improvement Project (TS_30_L, or Modified Project), evaluated in the Draft SEIR is a sub-reach within Alternative 7a. The structural measures proposed for the Modified Project, which are described in Chapter 2 of the Draft SEIR, *Project Description*, were discussed in the 2018 LSJR FR/EIS/EIR, but certain elements of Alternative 7a, such as staging areas, haul routes, mitigation sites, and the final project footprint, were not analyzed in the 2018 LSJR FR/EIS/EIR at a project-level of detail, because the specific project design was not available at that time. In addition, impacts to some resource areas in the 2018 LSJR FR/EIS/EIR (e.g., biological and cultural resources) were based on a desktop analysis and required further surveys to be completed prior to the proposed action/description being implemented. Further, certain resource areas (i.e., Energy, Wildfire) were not addressed in the 2018 LSJR FR/EIS/EIR, as they were added to the CEQA Appendix G Guidelines after release of the draft document to the public for review. Therefore, the Draft SEIR addressed the minor additions or changes to the project footprint and added resource-specific analyses, as required. These minor additions or changes, referred to in the Draft and Final SEIR as the "Modified Project," are described in Chapter 2, *Project Description*, of the Draft SEIR.

On March 29, 2021, the Board authorized a consultant services agreement with Environmental Science Associates, Inc. (ESA) for the Lower San Joaquin River Project TS30L CEQA/NEPA support in an amount of \$43,300 for analyses, evaluations and documentation required specifically for CEQA compliance relative to the Lower San Joaquin River Project, San Joaquin County, California Project.

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On April 22, 2021, contract amendment No.1 was issued to ESA in the amount of \$6,000 towards developing a memorandum for the 401 Water Quality Certification Assistance.

On July 22, 2021, SJAFCA's Board approved contract amendment No.2 in the amount not to exceed \$274,014.00. Amendment No.2 with ESA was approved for services related to additional project management efforts and meeting requirements, preparation of the Supplemental Environmental Impact Report, preparation of the CEQA addendum for tree/ Valley Elderberry Longhorn Beetle (VELB) removal, preparation of State permitting and optional tasks which included various environmental surveys that are needed for the project.

On January 18, 2022, Contract amendment No.3 was issued to ESA in the amount of \$8,730 to provide compliance with Americans with Disabilities Act (ADA) for the Lower San Joaquin River Project Phase 1 TS30L CEQA/NEPA support.

On October 20, 2022, SJAFCA's Board of Directors approved contract amendment No.4 in a not-to-exceed amount of \$194,707 for additional environmental (CEQA) services to evaluate three mitigation sites at a project level of detail and two mitigation sites at a program level of detail. At the same time, the Board was notified that the Draft SEIR for TS30L would be advertised for 45 days and that the final certification of the SEIR would be in September 2023.

PUBLIC INVOLVEMENT

The Draft SEIR was available to federal, state and local agencies and interested organizations and individuals who may want to review and comment on the analysis in the document. Publication of the Draft SEIR marked the beginning of a 45-day public review period. The 45-day public review period for the project was from May 31, 2023, to July 17, 2023, ending at 5 p.m. The non-federal sponsors (SJAFCA and CVFPB) and ESA have worked collaboratively with US Army Corps of Engineers (USACE). USACE has completed a draft Supplemental Environmental Assessment under NEPA and ESA has completed the draft Supplemental Environmental Impact Report under CEQA. Both documents were advertised at the same time and had the same public review period. During the public comment period, written comments were delivered to SJAFCA.

The Draft SEIR was available for public review at the Cesar Chavez Central Library, located at 605 North El Dorado Street, Stockton, CA 95202-1907. An electronic copy of the document was made available on SJAFCA's website via the following link:

<https://www.sjafca.org/maps/lower-san-joaquin-river-project>

SJAFCA also conducted in-person and virtual public meetings in coordination with USACE to receive comments on the adequacy of the analysis included in the Draft SEIR. The meetings were held on:

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Date: June 26, 2023
Time: 11:30 a.m. (virtual); 06:30 p.m. (in-person)
Location: Virtual public meeting information:
 URL: <https://bit.ly/LSJRP-TS30L>
 Phone call-in (audio only): +1 (669)-444-9171
 Meeting ID: 898 6149 4998
 Passcode: 172773

Physical address of in-person public meeting:
 Residence Inn by Marriott, Conference Room
 3240 W March Lane
 Stockton, CA 95219-2341

ENVIRONMENTAL ANALYSIS

SJAFCA has completed the following procedural requirements in compliance with CEQA.

1. Notice of Preparation

In accordance with CEQA Guidelines Sections 15063 and 15082, SJAFCA originally prepared and published a Notice of Preparation (NOP) of an EIR on January 14, 2010 (see Addendum D of the 2018 LSJR FR/EIS/EIR). The NOP was circulated to the public and to federal, state, and local agencies and other interested parties to solicit comments on the proposed Project. The public comment period for the NOP closed on February 15, 2010. In addition to the public and agency comment period, a public scoping meeting was held on January 27, 2010, at the University of the Pacific's Regents Dining Room.

Concerns raised in response to the NOP and oral comments received at the scoping meetings were considered during preparation of the 2018 LSJR FR/EIS/EIR and the Draft SEIR. The scoping comments were included in Addendum D of the 2018 LSJR FR/EIS/EIR. Preparation of a Draft SEIR does not require the release of another NOP.

2. The Draft Supplemental EIR

- 1.1 SJAFCA made the Draft SEIR available to local, state, and federal agencies and to interested organizations and individuals for review and comment. In accordance with CEQA Guidelines Section 15105, the Draft SEIR was available for a 45-day public review and comment period starting on May 31 and ending July 17, 2023, at 5:00 pm. The Draft SEIR was available for public review at the Cesar Chavez Central Library, located at 605 North El Dorado Street, Stockton, CA 95202-1907. An electronic copy of the document could be viewed on SJAFCA's website via the following link: <https://www.sjafca.org/maps/lower-san-joaquin-river-project>.**

SJAFCA also conducted both an in-person and a virtual public meeting on June 26, 2023, in coordination with USACE to receive comments on the adequacy of the analysis included in the Draft SEIR.

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3. Completion of the CEQA Process

In order to complete the CEQA process, the SJAFCA Board will formally review and consider this Final SEIR, pursuant to the requirements of Section 15090 of the CEQA Guidelines. After considering the anticipated and potential environmental impacts of the Modified Project, as identified in the Draft SEIR, the SJFACA Board will then choose whether or not to (1) certify the Final SEIR and (2) approve the Modified Project. Where a significant impact is identified, SJAFCA is required to make one or more findings for each significant effect, and then adopt a statement of overriding conditions as to any significant and unavoidable impacts.

If the SJAFCA Board decides to certify the Final SEIR, then SJAFCA may proceed with the Modified Project. CEQA also requires Lead Agency to adopt a mitigation monitoring and reporting program for those changes to the Project that it has adopted or made a condition of Project approval in order to mitigate or avoid significant effects on the environment. All adopted mitigation measures have been included in the mitigation monitoring and reporting program (**Appendix A**), to verify compliance.

After certifying the Final SEIR and approving the Project, SJAFCA will file a Notice of Determination (NOD) with both the City Clerk's office and the State Clearinghouse.

4. Project Description and Objectives

No changes to TS30L or its objectives have been made following publication of the Draft SEIR. Please refer to Chapter 2, *Project Description*, of the Draft SEIR.

5. Project Location

No changes to the Project location have been made following publication of the Draft SEIR. Please refer to Chapter 2, *Project Description*, of the Draft SEIR.

6. Final SEIR Organization

This Final SEIR is organized into the following chapters and appendices:

Chapter 1, Introduction. Chapter 1 includes introductory and background information, describes the CEQA process completed to date and procedures to be followed for the completion of CEQA, and summarizes Final SEIR organization.

Chapter 2, Comments Received and Responses. Chapter 2 presents comments received on the Draft SEIR and provides responses to these comments.

Chapter 3, List of Preparers. Chapter 3 provides the names of the Final SEIR authors and consultants, and agencies or individuals consulted during preparation of the Final SEIR.

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Appendices. Appendix A is a Mitigation Monitoring and Reporting Plan prepared in support of the Supplemental EIR.

PRESENT SITUATION

The Final SEIR prepared in response to written comments received from outside agencies during the public review period of the Draft SEIR. CEQA Guidelines Section 15088(b) requires SJAFCA to provide public agencies with a written proposed response to their comments on the Draft SEIR at least ten (10) days prior to certifying the Final SEIR or approving the project. To comply with this directive, the Final SEIR, containing specific responses to all public comments, was provided to commenting agencies for their review at least ten (10) days prior to its consideration by the SJAFCA Board. A copy of the final SEIR has been attached to the agenda package for SJAFCA Board member's review and consideration prior to their decision to approve, revise or reject the proposed project. Responses to public comments received regarding the Draft SEIR are contained in Chapter 2 (Comments Received on the Draft SEIR and Responses to Comments).

SJAFCA received public comments from the following:

LIST OF DRAFT SEIR COMMENTING PARTIES

Commenter	Identifier	Contact	Number of Comments
California Department of Transportation (Caltrans)	Caltrans-1	Tom Dumas	4
California Department of Fish and Wildlife	CDFW-1	Erin Chappell	2
Central Valley Regional Water Quality Control Board (Regional Water Board)	Regional Water Board-1	Peter Minkel	1
San Joaquin Valley Air Pollution Control District	SJVAPCD-1	Mark Montelongo	2
Gunter Konold	Individual-1	Gunter Konold	3

Pursuant to CEQA Guidelines, since the SEIR concludes that potentially significant and significant and unavoidable environmental impacts would result from the proposed project, the SJAFCA Board, is required to adopt specific CEQA findings regarding mitigation requirements and the feasibility of implementing project alternatives and/or adopt a Statement of Overriding Considerations (for any significant and unavoidable adverse environmental effects) in support of any discretionary project approval actions.

CEQA requires that when a public agency makes findings based on an SEIR, the public agency must adopt a Mitigation Monitoring and Reporting Program (MMRP) for those measures which it has adopted or made a condition of the project approval to mitigate or avoid significant effects on the environment. The MMRP must be designed to ensure compliance during project implementation. The recommended Findings of Facts and Statement of Overriding Considerations, and MMRP for the Lower San Joaquin River Reach TS30L Levee Improvement Project have been prepared and attached to the Agenda Package.

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STAFF RECOMMENDATION:

In order to certify the environmental documents and progress with the construction project, It is recommended that the Board of Directors of SAFCA to:

1. Consider the Potential Environmental Effects of the Lower San Joaquin River Reach TS_30_L Levee Improvement, San Joaquin County, California Project;
2. Adopt a Resolution (Attachment 1 to Staff Report) Certifying the Final Supplemental Environmental Impact Report (SEIR) for the Lower San Joaquin River Reach TS_30_L Levee Improvement, San Joaquin County, California Project (Attachment A to Staff Report – linked to SJAFCA website via cover page);
3. Adopt the Findings of Fact and Statement Overriding Considerations for the Approval of Lower San Joaquin River Reach TS_30_L Levee Improvement, San Joaquin County, California Project (Attachment A to the Final SEIR);
4. Adopt the Mitigation Monitoring and Reporting Program (Exhibit B to the Final SEIR);
5. Approve the Lower San Joaquin River Reach TS_30_L Levee Improvement, San Joaquin County, California Project
6. Delegate authority to the Executive Director to execute the Notice of Determination (Attachment 2 to Staff Report)

FISCAL IMPACT

As the Lead Agency for CEQA compliance related to the TS_30_L levee improvement project, SJAFCA is responsible for funding the consulting services to prepare the Final SEIR. The cost for preparing and delivering the Final SEIR, which is approximately \$526,000 will be shared by the State of California under the Local Project Partnership Agreement for the Lower San Joaquin River Reach TS30L Levee Improvement, San Joaquin County, California Project. Under the LPPA, the State is expected to reimburse 70 percent of the non-Federal project costs. SJAFCA and the State will also receive Federal credit for the cost of the larger project under the Project Partnership Agreement for the Lower San Joaquin River Reach TS30L Levee Improvement, San Joaquin County, California Project executed on September 30, 2020.

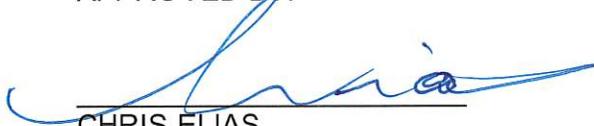
STRATEGIC PLAN CONSISTENCY ANALYSIS

Preparation and delivery of the Final SEIR for the Lower San Joaquin River Reach TS30L Levee Improvement, San Joaquin County, California Project is intended to comply with state and federal laws and related regulations. As a document designed to comply with relevant laws and regulations, the Final SEIR involved proactive public participation that helped improve design, plans and specification for future construction of TS-30-L. Therefore, the resulting Final SEIR furthers the Mission and Goals of the Board-adopted Strategic Plan, specifically *Goal 1 to Plan for and Implement System Resiliency and Goal 2 Drive for Operational Transparency; and Goal 5 Promote Public and Institutional Awareness.*

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PREPARED BY: Omar Al-Hindi

APPROVED BY:



CHRIS ELIAS
EXECUTIVE DIRECTOR

LIST OF ATTACHMENTS

Attachment 1 to Staff Report - Resolution Certifying the Final Supplemental Environmental Impact Report (SEIR) for the Lower San Joaquin River Reach TS_30_L Levee Improvement, San Joaquin County, California Project

Attachment A to Staff Report – linked to SJAFCA website via cover page is Final Supplemental Environmental Impact Report (SEIR) for the Lower San Joaquin River Reach TS_30_L Levee Improvement, San Joaquin County, California Project

Exhibit A of Attachment A to the Staff Report - Findings of Fact and Statement Overriding Considerations for the Approval of Lower San Joaquin River Reach TS_30_L Levee Improvement, San Joaquin County, California Project

Exhibit B of Attachment A to the Staff Report - the Mitigation Monitoring and Reporting Program

Attachment 2 to Staff Report - Authority to the Executive Director to execute the Notice of Determination