



State of California • Natural Resources Agency
Department of Conservation
Division of Land Resource Protection
801 K Street • MS 14-15
Sacramento, CA 95814
(916) 324-0850 • FAX (916) 327-3430

Edmund G. Brown Jr., Governor
Kathryn M. Lyddan, Division Director

September 14, 2017

VIA EMAIL: EIR-EIS-COMMENTS@SITESPROJECT.ORG

Mr. Rob Thomson
Site Project Authority
Draft EIR/EIS Comments
PO Box 517
Maxwell, CA 95955

Dear Ms. Thomson:

SITES RESERVOIR PROJECT, DRAFT ENVIRONMENTAL IMPACT REPORT, SCH#
2001112009

The Department of Conservation's (Department) Division of Land Resource Protection (Division) has reviewed the Draft Environmental Impact Report (EIR) submitted by the Site Project Authority for the Sites Reservoir Project. The Division monitors farmland conversion on a statewide basis and administers the California Land Conservation (Williamson) Act and other agricultural land conservation programs. We offer the following comments and recommendations with respect to the proposed project's potential impacts on agricultural land and resources.

PROJECT DESCRIPTION

The proposed Sites Reservoir Project would consist of a new offstream storage reservoir with a capacity of approximately 1.8 million acre feet (MAF). The Sites Reservoir would be approximately 12,000 - 14,000 acres in size and would be created by inundating the area around the unincorporated community of Sites, California, which is referred to locally as Antelope Valley. Up to eleven dams would be needed to create the proposed Sites Reservoir. There would be two main dams: the Golden Gate Dam on Funks Creek, and the Sites Dam on Stone Corral Creek. The Sites Reservoir Project also would include an inlet/outlet structure; a pumping plant, electrical switchyard and overhead power lines; and a tunnel approximately 4,030 feet in length connecting the pumping plant to the reservoir.

The EIR states that the Sites Reservoir Project has the potential to permanently impact up to 216 acres of Important Farmland as classified by the Department of Conservation's Farmland Mapping and Monitoring Program and goes on to state that there are no feasible mitigation measures to minimize this impact. The project also has the potential to impact more than 340 parcels currently under Williamson Act contracts. Impacts to Williamson Act contracted land would be adequately mitigated with the implementation of mitigation measures, Land-7a and Land-7b. These mitigation measures propose the termination of contracts through the use of eminent domain, cancellation of contracts through the Williamson Act cancellation process, or rescission and reentering into new open space contracts or open space easements.

Department Comments

If a project's impacts are deemed significant, CEQA requires lead agencies to describe and consider feasible mitigation measures to avoid or minimize the projects significant effects. The conversion of agricultural land represents a permanent reduction in the State's agricultural land resources. As such, the Department advises the use of permanent agricultural conservation easements on land of at least equal quality and size as partial compensation for the direct loss of agricultural land. Conservation easements are an available mitigation tool and considered a standard practice in many areas of the State.

Conservation easements will protect a portion of those remaining land resources and lessen project impacts in accordance with CEQA Guideline § 15370. The Department highlights this measure because of its acceptance and use by lead agencies as an appropriate mitigation measure under CEQA and because it follows an established rationale similar to that of wildlife habitat mitigation.

Although direct conversion of agricultural land is often an unavoidable impact under CEQA analysis, mitigation measures must be considered. In some cases, the argument is made that mitigation cannot reduce impacts to below the level of significance because agricultural land will still be converted by the project, and therefore, mitigation is not required. However, reduction to a level below significance is not a criterion for mitigation under CEQA. Rather, the criterion is feasible mitigation that lessens a project's impacts. A Statement of Overriding Considerations is not a substitute for the requirement to prepare findings (CEQA Guidelines § 15091)¹. CEQA states that the Lead Agency shall describe the specific reasons for rejecting identified mitigation measures. All mitigation measures that are potentially feasible should be included in the EIR. A measure brought to the attention of the Lead Agency should not be left out unless it is infeasible based on its elements. Because agricultural conservation easements are an available mitigation tool, they should always be considered.

Mitigation via agricultural conservation easements can be implemented by at least two alternative approaches: the outright purchase of easements or the donation of mitigation fees to a local, regional, or statewide organization or agency whose purpose includes the acquisition and stewardship of agricultural conservation easements. The conversion of agricultural land should be deemed an impact of at least regional significance. Hence, the search for replacement lands should not be limited strictly to lands within the project's surrounding area but should include agricultural land of similar quality.

A source that has proven helpful is the California Council of Land Trusts. They provide helpful insight into farmland mitigation policies and implementation strategies, including a guidebook with model policies and a model local ordinance. The guidebook can be found at:

<http://www.calandtrusts.org/resources/conserving-californias-harvest/>

Another source is the Division's California Farmland Conservancy Program (CFCP), which has participated in bringing about conservation easements throughout the State of California involving many California land trusts. Of course, the use of conservation easements is only one form of

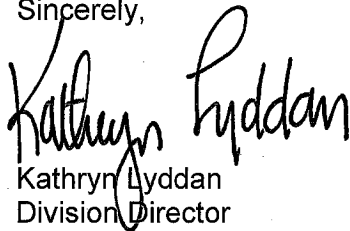
¹ 2015 CEQA Statute and Guidelines. Palm Desert: Association of Environmental Professionals, 2015. 158-159. Print.

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mitigation that should be considered. Any other feasible mitigation measures should also be considered.

Thank you for giving us the opportunity to comment on the Draft Environmental Impact Report for the Sites Reservoir Project. Please provide this Department with notices of any future hearing dates as well as any staff reports pertaining to this project. If you have any questions regarding our comments, please contact Farl Grundy, Environmental Planner at (916) 324-7347 or via email at Farl.Grundy@conservation.ca.gov.

Sincerely,

A handwritten signature in black ink that reads "Kathryn Lyddan". The signature is written in a cursive style with a large, looping initial 'K'.

Kathryn Lyddan
Division Director

