

Chapter 4 **Regulatory and Environmental Compliance: Project Permits, Approvals, and Consultation Requirements**

4.1 Introduction

This chapter provides summary tables of federal, state and local permits, laws, approvals, reviews, and consultation requirements applicable to the Project (Tables 4-1, 4-2, and 4-3). It is included to fulfill CEQA Guidelines § 15124(d)(1) which requires: (1) a list of the agencies that are expected to use the EIR in their decision-making; (2) a list of permits and other approvals required to implement the project; and (3) a list of related environmental review and consultation requirements. This information will also be useful for NEPA purposes, particularly with respect to the roles and responsibilities of cooperating agencies. It is anticipated that multiple agencies would rely on the analysis in this RDEIR/SDEIS and the future Final EIR/EIS for issuing permits or making decisions, including future decisions that may be made by Federal, State, and Sites storage partners in implementing the project.

Appendix 4A, *Regulatory Requirements* describes in detail the regulatory setting for these various permits, laws, approvals and consultation requirements, as well as other generally applicable environmental requirements that may apply to Project activities or the environmental review, including the relevance to the impact analysis for each environmental topic.

Table 4-1. Federal Permits, Approvals, Reviews, and Consultation Requirements

Responsible Agency(ies)	Permit, Approval, Review or Consultation Requirement	Description	Authority
U. S. Department of the Interior, Bureau of Reclamation (Reclamation)	Lead Agency responsible for Implementation of the National Environmental Policy Act	<p>Prepare the EIS and issue the ROD as the representative NEPA lead agency for the Department of the Interior. The EIS must also comply with the following laws, regulations, and executive orders:</p> <p>Federal Water Pollution Control Act (Clean Water Act), Sections 303, 401, 402, and 404; Rivers and Harbors Act, Sections 9, 10, 14, and 408; Federal Safe Drinking Water Act; Wild and Scenic Rivers Act; Fish and Wildlife Coordination Act; Marine Mammal Protection Act; Migratory Bird Treaty Act; Federal Clean Air Act; National Historic Preservation Act of 1966, Sections 106 and 110; American Indian Religious Freedom Act; Native American Graves Protection and Repatriation Act; Executive Order 13186 (protection of migratory birds); Executive Order 11990 (protection of wetlands); Executive Order 12898 (environmental justice); Executive Order 11988 (floodplain management); Executive Order 13007 (protection of Indian Sacred Sites on federal land)</p>	1 C.F.R. § 601.5.
U.S. Environmental Protection Agency (USEPA)	Review of Environmental Impact Statement	USEPA is charged with reviewing and commenting on Environmental Impact Statements for major federal actions under NEPA	Section 309 of the Clean Air Act, codified at 42 U.S.C. § 7609
	Review of Clean Water Act (CWA) Section 404 Permits	USEPA has the authority to restrict, prohibit, deny, or withdraw the use of an area as a disposal site for dredged or fill material if the discharge will have unacceptable adverse effects on municipal water supplies, shellfish beds and fishery areas, wildlife, or recreational areas.	Section 404(c) of the CWA, codified at 33 U.S.C. § 1344(c)

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Responsible Agency(ies)	Permit, Approval, Review or Consultation Requirement	Description	Authority
USEPA/USACE	Compliance with CWA, Section 404(b)(1) guidelines	Determine compliance that no discharge of dredged or fill material are permitted if a practicable alternative exists that is less damaging to the aquatic environment, it violates other laws, significantly degrades waters of the United States, or does not include practicable steps to minimize adverse impacts on the aquatic ecosystem.	Section 404(b)(1) of the CWA codified at 40 C.F.R. Section 230.1
U.S. Army Corps of Engineers (USACE), Sacramento District	Department of the Army CWA Section 404 Permit	Permit related to the discharge of dredged or fill material into waters of the United States (including wetlands).	Section 404 of the CWA, codified at 33 U.S.C. § 1344
	Department of the Army Rivers and Harbors Act, Section 10 Permit	Permit related to construction of any structure in or over navigable waters of the United States, the excavation/dredging or deposition of material in these waters, or any obstruction or alteration in navigable waters.	Section 10 of the Rivers and Harbors Act, codified at 33 U.S.C. § 403
	33 U.S.C. § 408 Permission	Permit related to any proposed project that may affect any existing USACE and/or State Plan of Control levee in the Central Valley and Delta.	Section 14 of the Rivers and Harbors Act, codified at 33 U.S.C § 408
U.S. Fish and Wildlife Service (USFWS); National Marine Fisheries Service (NMFS)	Section 7 and Section 10 Consultation	Consultation requirement related to determining that any discretionary action authorized, funded, or carried out by a federal agency is not likely to jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat.	Section 7 of the Endangered Species Act, codified at 16 U.S.C. § 1536(a)(2), and implementing regulations.
USFWS	Incidental Eagle Take Permit; Nest Take Permit	Permit needed for the take of bald and/or golden eagle and their nests.	16 U.S.C. § 668; 54 C.F.R. § 22.26
The Advisory Council on Historic Preservation (ACHP); California Office of Historic Preservation	Section 106 Consultation	Consultation requirement related to considering the effects of a federal undertaking on historic and cultural resources.	National Historic Preservation Act, codified at 36 C.F.R. § 800, and implementing regulations.

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U. S. Department of the Interior, Bureau of Indian Affairs	Section 106 Consultation	Consultation requirement with federally recognized tribes and protection of Indian Trust Assets.	25 USC 1a
U.S. Coast Guard	Private Aids to Navigation Permit	U.S. Coast Guard determination whether proposed activities affect river navigation, warning buoys and signs alerting boaters in navigable waters.	33 C.F.R. § 2.40.
U. S. Department of Agriculture, Natural Resources Conservation Service (NRCS)	Determine compliance with the Farmland Protection Policy Act	Departments, agencies, independent commissions, and other units of the Federal Government shall identify the quantity of farmland actually converted by Federal programs, and to identify and take into account the adverse effects of Federal programs on the preservation of farmland; consider alternative actions, as appropriate, that could lessen such adverse effects; and assure that such Federal programs, to the extent practicable, are compatible with State, unit of local government, and private programs and policies to protect farmland.	7 USC 4201-4209 & 7 USC 658
U. S. Department of Energy, Western Area Power Administration	Western Area Power Administration accepts requests from electric utilities, firm-power customers, private power developers and independent power generators to interconnect with its transmission system	WAPA may market and deliver power generated by the Project where it may interconnect to the WAPA transmission system	Reclamation Project Act of 1939 (43 U.S.C. § 485h(c))

Table 4-2. State Permits, Approvals, Reviews, and Consultation Requirements

Responsible Agency(ies)	Permit, Approval, or Consultation Requirement	Description	Authority
California Water Commission	Approval of WSIP Funding	Related to the Water Storage Investment Program, which implements Proposition 1, Chapter 8 and its appropriation for the public benefits of water storage projects.	23 C.C.R. Title 23, Div. 7, Ch. 1.
California Department of Fish and Wildlife	Section 2081 Incidental Take Permit	Related to potential adverse effects on state-listed endangered or threatened species or species proposed for state listing.	California Fish and Game Code § 2081
	Lake and Streambed Alteration Agreement	Related to: any substantial diversion or obstruction of the natural flow of, or substantial change or use of any material from the bed, channel, or bank of, any river, stream or lake; crossing of streams, rivers, or lakes (also for reservoirs, which interrupt streams).	California Fish and Game Code § 1602
California Department of Water Resources, Division of Safety of Dams	Approval of plans and specifications for the construction or enlargement of a dam or reservoir.	Related to the Department’s oversight of the design, construction, and maintenance of jurisdictional dams in California.	California Water Code Division 3, Dams and Reservoirs, Parts 1 and 2
State Water Resources Control Board; Central Valley Regional Water Quality Control Board	Water Rights Permit	Related to the diversion and utilization of water from existing streamflow.	California Water Code § 5101
	NPDES General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities	Related to all construction and land disturbance discharges when clearing, grading, and excavation result in a land disturbance of 1 or more acres. Permittee files a notice of intent to be covered under the statewide general permit.	Section 402 of the CWA
	Section 401 Water Quality Certification	State certification that the Federal permit for discharge of dredged or fill material to waters of the United States does not violate state water quality standards.	Section 401 of the CWA

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Responsible Agency(ies)	Permit, Approval, or Consultation Requirement	Description	Authority
	Waste Discharge Requirements	Compliance for the discharge of reclaimed water on land and to groundwater and waste discharges to non-federally regulated waters of the State	Sections 13260–13276 of the Porter-Cologne Water Quality Control Act
	Section 401 Water Quality Certification	Related to dredged or fill material to waters of the United States	Section 401 of the CWA
California Department of Transportation (Caltrans)	Encroachment Permit(s)	Related to use of California rights-of-way for installation of pipelines along state freeways and roads.	California Streets and Highway Code § 660-759.3.
	Transportation Permit(s)	Related to the transport of heavy or oversized loads on state roads during construction.	California Vehicle Code, Section 35780; California Streets and Highway Code 117, 660-711
California State Lands Commission	Land Use Lease(s)	Related to work in jurisdictional areas (e.g. along the Sacramento River), specifically, placement of fill or structures in navigable waterways or Section 16 or 36 lands.	California Public Resources Code §§ 6000 et seq.
Central Valley Flood Protection Board	Encroachment Permit	Related to encroachment onto/through regulated streams and designated floodways. The Flood Protection Board is the nonfederal sponsor agency for 33 U.S.C. § 408 coordination with USACE Civil Works Division.	23 C.C.R. Title 23, Div. 1.
California Air Resources Board	Equipment and vehicle Registrations	Administer the air quality policy to achieve the California Ambient Air Quality Standards (including the NAAQS for USEPA) and State Air Quality Designations related to the use of off-road heavy-duty diesel vehicles and other construction equipment that contribute to particulate matter and oxides of nitrogen into the air.	California Legislature

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Responsible Agency(ies)	Permit, Approval, or Consultation Requirement	Description	Authority
California Department of Toxic Substances Control	Hazardous waste transporter or generator Registration	Compliance with generation, transportation, treatment, storage, and disposal of hazardous waste regulations in California	California Health and Safety Code with Division 20, Chapter 6.5, Article 6 and 13, Title 22, Division 4.5, Chapter 13
California Occupational Safety and Health Administration	Project permits and Annual permits to employers for major activities in construction and permits allowing use of diesel engines in mining and tunneling	Protects and improves the health and safety of working men and women in California during the construction of trenches or excavations 5 feet or deeper and into which a person is required to descend, construction or demolition of any building, structure, scaffolding, or falsework more than three stories high or the underground use of diesel engines in working mines and tunnels.	California Labor Code, Section 6500, CCR title 8, section 341 and 341.1
Native American Heritage Commission/ Local Tribes	AB 52 Consultation	Related to effects on tribal cultural resources.	PRC, Section 21080.3.1
California Public Utility Commission	Interconnection with PG&E Transmission Lines	The CPUC regulates investor-owned electric and natural gas utilities operating in California.	California Public Utilities Code

Table 4-3. Local Permits, Approvals, Reviews, and Consultation Requirements

Responsible Agency(ies)	Permit, Approval, or Consultation Requirement	Description	Authority
Colusa, Glenn, Tehama and Yolo Counties, Public Works Departments	Encroachment Permit	Related to use of local jurisdiction’s right-of-way to install pipeline across roadways.	County ordinances
	Transportation Permit	Related to transport of heavy or oversized loads on county roads.	County ordinances
	Building Permit; Street Improvement Permit; Grading Permit.	Related to construction activities within the county jurisdiction.	Uniform Building Codes, as adopted
Yolo County, Planning Departments	Conditional Use Permit	Related to changes to zoning or General Plan designations	County Zoning Code and General Plan
Colusa and Glenn Planning Departments	Conditional Use Permit; Zoning/General Plan Amendment, Surface Mining and Reclamation Act Permit	Related to changes to zoning or General Plan designations and excavation of borrow material	County Zoning Code and General Plan
Colusa, Glenn, Tehama and Yolo Counties, Air Pollution Control Districts	Authority to Construct; Permit to Operate.	Related to construction or operation of any nonexempt stationary source of air emissions.	New Source Review regulations; CAA; GCAPCD Article III, Sections 50 to 57; CCAPCD Regulation III, Rules 3.1 to 3.18