

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

4.1 Introduction

This chapter summarizes the federal (Table 4-1), state (Table 4-2) and local (Table 4-3) permits, approvals and consultation processes that are potentially applicable to the Project and agencies that are anticipated to rely on this EIR/EIS for decision-making and implementation.

Appendix 4A, *Regulatory Requirements*, describes in detail the regulatory setting for each of the resources addressed in the environmental analysis (i.e., Chapters 5 through 31). The purpose of this appendix is to streamline this EIR/EIS and gather all regulatory details into one location for the reader.

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	NEPA Lead Agency	<p>Prepare the EIS and issue the ROD as the NEPA lead agency within the Department of the Interior. Reclamation will also be responsible for compliance with the following laws, regulations, and executive orders, as applicable:</p> <p>Federal Water Pollution Control Act as amended (CWA), 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>	40 C.F.R. Section 1507.2
	Temporary and Long-Term Easement(s)/License(s)	Use of Bureau of Reclamation land, facilities, and waterbodies related to the construction of Sites Project facilities on existing federal lands.	Use of Bureau of Reclamation Land, Facilities, and Waterbodies (43 C.F.R. Part 429)
	Warren Act Contract	Contract to provide for conveyance of non-Central Valley Project water in Central Valley Project facilities.	Section 1 of the Act of February 21, 1911 (36 Stat. 925); Section 305 of the Reclamation

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Responsible Agency(ies)	Permit, Approval, Review, or Consultation Requirement	Description	Authority
			States Emergency Drought Relief Act of 1991 (106 Stat. 539)
	WIIN 4007 Agreements	WIIN 4007(g) Partnership and Agreements—The Secretary of the Interior, acting through the Commissioner, may partner or enter into an agreement regarding the water storage projects identified in section 103(d)(1) of the Water Supply, Reliability, and Environmental Improvement Act (Public Law 108–361; 118 Stat. 1688) with local joint powers authorities formed pursuant to State law by irrigation districts and other local water districts and local governments within the applicable hydrologic region, to advance those projects.	Section 4007(g) of the Water Infrastructure Improvements for the Nation Act (Public Law 114-322)
USEPA	Review of RDEIR/SDEIS	USEPA is charged with reviewing and commenting on EISs for major federal actions under NEPA.	Clean Air Act Section 309, codified at 42 U.S.C. Section 7609
	Review of 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.	CWA Section 404(c), codified at 33 U.S.C. Section 1344(c)
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.	CWA Section 404(b)(1), codified at 40 C.F.R. Section 230.1

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Responsible Agency(ies)	Permit, Approval, Review, or Consultation Requirement	Description	Authority
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.	CWA Section 404, codified at 33 U.S.C. Section 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.	Rivers and Harbors Act, Section 10, codified at 33 U.S.C. Section 403
	33 U.S.C. Section 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.	Rivers and Harbors Act, Section 14, codified at 33 U.S.C. Section 408
U.S. Fish and Wildlife Service; National Marine Fisheries Service	Section 7 Consultation/Section 10 Incidental Take Permit	Consultation 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. Incidental Take Statement/Incidental Take Permit for any take of listed species.	Endangered Species Act Section 7, codified at 16 U.S.C. Section 1536(a)(2), and implementing regulations; Endangered Species Act Section 10, codified at 16 U.S.C. Section 1539
U.S. Fish and Wildlife Service	Incidental Eagle Take Permit; Nest Take Permit	Permit for the take of bald and/or golden eagle and their nests.	16 U.S.C. Section 668; 50 C.F.R. Section 22.26
The Advisory Council on Historic Preservation; California Office of Historic Preservation	Section 106 consultation	Consultation related to considering the effects of a federal undertaking on historic and cultural resources.	National Historic Preservation Act, codified at 36 C.F.R. Section 800, and implementing regulations
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. Section 2.40

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Responsible Agency(ies)	Permit, Approval, Review, or Consultation Requirement	Description	Authority
National Resources Conservation Service	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 U.S.C. Sections 4201–4209, 7 U.S.C. Section 658
U.S. Department of Energy, WAPA	WAPA 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; the Project may also rely on the WAPA system for its power needs.	Reclamation Project Act of 1939 (43 U.S.C. Section 485h(c))
Federal Energy Regulatory Commission (FERC)	Application for Preliminary Permit, License or Exemption: Hydroelectric Power Facilities	<p>According to FERC Regulation Part 4 Subpart D entitled Application for Preliminary Permit, License or Exemption: General Provisions, 18 C.F.R. Section 4.30, FERC may issue a Conduit Exemption for constructing a hydropower project on an existing conduit (e.g., an irrigation canal). Conduit exemptions are authorized by FERC for generating capacities of 40 megawatts or less. To qualify for the exemption, the conduit must have been constructed primarily for purposes other than electric power production.</p> <p>FERC issued preliminary determinations March 8, 2023, for the proposed Funks Energy Recovery</p>	18 C.F.R. Section 4.30

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Responsible Agency(ies)	Permit, Approval, Review, or Consultation Requirement	Description	Authority
		<p>Project and for the proposed Terminal Regulating Reservoir Energy Recovery Project, preliminarily determining that the proposed hydropower facilities are Qualifying Conduit Hydropower Facilities that are not required to be federally licensed or are exempt from licensing (Federal Energy Regulatory Commission 2023a, 2023b). FERC preliminarily determined that the proposed Funks Energy Recovery Project and proposed Terminal Regulating Reservoir Energy Recovery Project will not alter the primary purpose of the conduit, which is for irrigation, municipal water supply, and other uses, and thereby meet the criteria established by the Federal Power Act for the Qualifying Conduit Hydropower Facility exemption.</p> <p>FERC, through the Notices of Preliminary Determination, solicited public comments and motions to intervene for a period of 30 days from the March 8, 2023, publication date of the Notices. FERC issued a Notice of Final Determination for the Funks Energy Recovery Project and for the proposed Terminal Regulating Reservoir Energy Recovery Project on April 12, 2023 (Federal Energy Regulatory Commission 2023c, 2023d).</p>	

Notes: C.F.R. = Code of Federal Regulations; CWA = Clean Water Act; Delta = Sacramento–San Joaquin Delta; EIS = environmental impact statement; FERC = Federal Energy Regulatory Commission; NEPA = National Environmental Policy Act; RDEIR/SDEIS = Revised Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement; Reclamation = Bureau of Reclamation; ROD = Record of Decision; USACE = U.S. Army Corps of Engineers; U.S.C. = U.S. Code; USEPA = U.S. Environmental Protection Agency; WAPA = Western Area Power Administration; WIIN = Water Infrastructure Improvements for the Nation.

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 WSIP, which implements Proposition 1, Chapter 8 and its appropriation for the public benefits of water storage projects.	23 Cal. Code Regs., Title 23, Div. 7, Ch. 1
California Department of Fish and Wildlife	Section 2081 Incidental Take Permit	Permit for take of state-listed endangered or threatened species or species proposed for state listing.	California Fish and Game Code Section 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 Section 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 Div. 3, 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 Section 5101
	National Pollutant Discharge Elimination System General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities	Related to all construction and land disturbance discharges when clearing, grading, and excavating result in a land disturbance of 1 or more acres. Permittee files a notice of intent to be covered under the statewide general permit.	CWA Section 402
	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.	CWA Section 401
	Waste Discharge Requirements	Compliance for the discharges to waters of the State.	Porter-Cologne Water Quality Control Act Sections 13260–13276

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Responsible Agency(ies)	Permit, Approval, or Consultation Requirement	Description	Authority
California Department of Transportation	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 Sections 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 Sections 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 Section 6000 et seq.
Central Valley Flood Protection Board	Encroachment Permit	Related to encroachment onto/through regulated streams and designated floodways. The Central Valley Flood Protection Board is the nonfederal sponsor agency for 33 U.S.C. Section 408 coordination with USACE Civil Works Division.	23 California Code Regs. Title 23, Div. 1.
Native American Heritage Commission/Local Tribes	AB 52 Consultation	Consultation with California Native American Tribes traditionally or culturally affiliated with the geographic area of the proposed project regarding the presence of and potential Project impacts on tribal cultural resources.	California Public Resources Code Section 21080.3.1
California Public Utilities Commission	Interconnection with PG&E Transmission Lines	CPUC regulates investor-owned electric and natural gas utilities operating in California. CPUC may have oversight of a potential interconnection of power facilities to the PG&E transmission system.	California Public Utilities Code
California Department of Water Resources	Operations Agreement among DWR, the Authority, and Reclamation	A three-party operations agreement among DWR, the Authority, and Reclamation for coordinated operations of the Project in conjunction with the SWP and CVP operations.	Burns-Porter Bond Act (Wat. Code § 12930 et seq.), Central Valley Project Act (Wat. Code § 11100 et seq.)
	Amendments to water supply contracts with SWP	An amendment to individual SWP contractors' water supply contracts with DWR providing for DWR to	Burns-Porter Bond Act (Wat. Code § 12930 et seq.),

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Responsible Agency(ies)	Permit, Approval, or Consultation Requirement	Description	Authority
	contractors and benefits and obligations contracts with SWP contractors and the Authority	acquire and deliver Sites water to the individual SWP contractor through the SWP system. Additionally, a three-party contract among DWR, individual SWP contractors, and the Authority to facilitate the acquisition and delivery of Sites water to individual SWP contractors.	Central Valley Project Act (Wat. Code § 11100 et seq.)
	Agreements with SWP contractors for delivery of Sites water through the SWP system	Agreements with individual SWP contractors and DWR to deliver Sites water to the individual SWP contractors through the SWP system.	Burns-Porter Bond Act (Wat. Code § 12930 et seq.), Central Valley Project Act (Wat. Code § 11100 et seq.)
	Contract for administration of public benefits with the Authority	A contract for administering public benefits between DWR and the Authority for flood control and recreational benefits.	Wat. Code § 79755
	Agreements, as needed, with the Authority for wheeling of Sites water through the SWP system	Agreements for wheeling of Sites water through the SWP system for the wildlife refuges located in the Central Valley.	Burns-Porter Bond Act (Wat. Code § 12930 et seq.), Central Valley Project Act (Wat. Code § 11100 et seq.), Wat. Code § 1810

Notes: AB = Assembly Bill; Authority = Sites Project Authority; CPUC = California Public Utilities Commission; CVP = Central Valley Project; CWA = Clean Water Act; DWR = California Department of Water Resources; PG&E = Pacific Gas and Electric Company; Project = Sites Reservoir Project; Reclamation = Bureau of Reclamation; SWP = State Water Project; USACE = U.S. Army Corps of Engineers; U.S.C. = U.S. Code; WSIP = Water Storage Investment Program.

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 Department	Conditional Use Permit	Related to changes to zoning or General Plan designations	County Zoning Code and General Plan
Colusa and Glenn Counties, 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 50–57; CCAPCD Regulation III, Rules 3.1–3.18

Notes: CAA = Clean Air Act; CCAPCD = Colusa County Air Pollution Control District; GCAPCD = Glenn County Air Pollution Control District.

4.2 References

4.2.1 Printed References

Federal Energy Regulatory Commission. 2023a. Sites Project Authority Docket No. CD23-5-000. Notice of Preliminary Determination of a Qualifying Conduit Hydropower Facility and Soliciting Comments and Motions to Intervene (March 8, 2023).

Federal Energy Regulatory Commission. 2023b. Sites Project Authority Docket No. CD23-6-000. Notice of Preliminary Determination of a Qualifying Conduit Hydropower Facility and Soliciting Comments and Motions to Intervene (March 8, 2023).

Federal Energy Regulatory Commission. 2023c. Docket No. CD23-5-000—California. Notification the Funks Energy Recovery Project Meets the Qualifying Conduit Hydropower Facility Criteria (April 12, 2023).

Federal Energy Regulatory Commission. 2023d. Docket No. CD23-6-000—California. Notification the Terminal Regulating Reservoir Energy Recovery Project Meets the Qualifying Conduit Hydropower Facility Criteria (April 12, 2023).