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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(El Dorado)

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SAVE THE EL DORADO CANAL,

Plaintiff and Appellant,

v.

EL DORADO IRRIGATION DISTRICT et al.,

Defendants and Respondents.

C092086

(Super. Ct. No. PC20190260)

Appellant Save the El Dorado Canal seeks reversal of a judgment entered after the trial court denied its petition for writ of mandate. The petition challenged certification of an environmental impact report (EIR) and approval of a project under the California Environmental Quality Act (CEQA).<sup>1</sup> The challenged project, the Upper Main Ditch

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<sup>1</sup> CEQA is codified at Public Resources Code section 21000 et seq. Hereafter, undesignated statutory references are to the Public Resources Code. Regulations promulgated to implement CEQA are set forth in California Code of Regulations, title 14,

piping project, was approved by the El Dorado Irrigation District (District) and the El Dorado Irrigation District Board of Directors (Board of Directors) (collectively, respondents). The proposed project would have replaced roughly three miles of the District's unlined earthen ditch system (the Upper Main Ditch) with a buried water transmission pipeline to be located either beneath the ditch itself or beneath the berm alongside the ditch. Under this proposal, although the Upper Main Ditch would no longer be utilized to convey the District's water supply, it would remain available to carry stormwater runoff and the District would retain an easement for maintenance. Respondents approved an alternative to the proposed project, the Blair Road alternative, which aligns a portion of the pipeline with the Upper Main Ditch but places the majority of the pipeline beneath a roadway, Blair Road, resulting in the District's abandonment of most of the ditch.

On appeal, appellant contends respondents' approval of the challenged project violated CEQA because: (1) the EIR failed to provide an adequate project description because it omits "a crucial fact about the ditch the District proposes to 'abandon,' " i.e., "the Main Ditch system is the *only* drainage system" for the watershed; and (2) the EIR failed to adequately analyze the impacts of abandonment to hydrology, biological resources, and risks associated with wildfires.

We affirm. As we shall explain, respondents did not abuse their discretion in approving the Blair Road alternative. The draft and final EIR's adequately apprised respondents and the public about both the nature of the watershed and the fact that the District would no longer maintain the abandoned portion of the Upper Main Ditch.

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section 15000 et seq. We shall refer to these regulations as "Guidelines." (§ 21083, subds. (a), (f) ["Office of Planning and Research shall prepare and develop proposed guidelines" and "Secretary of the Resources Agency shall certify and adopt guidelines"]; see also *Association of Irrigated Residents v. Kern County Bd. of Supervisors* (2017) 17 Cal.App.5th 708, 718, fn. 2 (*Irrigated Residents*)).

These environmental documents also adequately analyzed the Blair Road alternative's impacts to hydrology, biological resources, and risks associated with wildfires.

## BACKGROUND

The District, a public water agency located in El Dorado County, operates a water system that relies exclusively on surface water to meet its potable water demand. The system contains more than 1,250 miles of pipe and 27 miles of earthen ditches connecting various water facilities, including five water treatment plants (WTP's). One of the District's main water conveyance features is the Upper Main Ditch, a roughly three-mile stretch of open and unlined ditch connecting the District's Forebay Reservoir to the Reservoir 1 WTP.

### *The Proposed Project*

The District proposed to convert the Upper Main Ditch into a buried 42-inch pipeline that would span the entirety of the existing ditch. Several reasons were advanced for the conversion; foremost among these was water conservation. As the draft EIR explains, citing a 2017 study, the open and unlined nature of the Upper Main Ditch results in "11-percent to 33-percent" of the water conveyed through the ditch being lost "due to seepage and evapotranspiration" each year, "depending on flow rates and annual diversions." Citing data from 2009 to 2015, the draft EIR estimates "minimum water savings of approximately 1,350 acre-feet per year and an average of nearly 1,800 acre-feet can be expected to result from piping the ditch." This "would assist the District in meeting water conservation mandates" imposed by the Legislature and the State Water Resources Control Board, the latter acting at the direction of the Governor.

The proposed project would also improve water quality because "[t]he existing unlined and uncovered Upper Main Ditch is currently susceptible to contamination and failure, resulting in erosion and water quality issues that increase the contaminant load that must be removed by the treatment process at the WTP." Contaminants identified in

the Upper Main Ditch during a water quality analysis conducted by the District include “total coliform, E. coli, and turbidity.”

The upstream end of the new pipeline would connect to the Forebay Reservoir valve house and would then “follow[] the existing ditch alignment for the entire 15,400 feet” of the Upper Main Ditch. As the draft EIR explains, the buried pipeline “would vary between being completely under the existing ditch to partially under the ditch and partially under the berm, to completely under the berm.” Once the new pipeline is placed beneath the ditch/berm, the District would backfill the pipe with “engineered fill and select backfill material,” compact the surface, and reshape the ditch “to allow for passage of stormwater flows up to the current 10-year storm event capacity.” Finally, “[a]t the downstream end, a metering and inlet structure would also be constructed within the ditch to turn water into the Reservoir 1 WTP.”

### *The Blair Road Alternative*

In addition to the proposed project, the District considered three alternatives: two alternative alignments for the pipeline, and a “No-Project Alternative” that would have left the Upper Main Ditch unaltered in its operation. Because the Blair Road alternative was ultimately chosen, we describe this alternative in some detail.<sup>2</sup>

The Blair Road alternative also converts the Upper Main Ditch into a buried 42-inch pipeline, but rather than running the pipe along the existing ditch, this alternative alignment places the pipe across District-owned property for about 400 feet from the Forebay Reservoir valve house to Blair Road, continues along Blair Road for about 8,200 feet until it reaches the Upper Main Ditch crossing, then continues along the ditch for

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<sup>2</sup> We do not describe the other alternative, referred to as the “Combined Alternative,” but note here that respondents ultimately rejected this alternative alignment because, among other reasons, it “would require the most number of trees to be removed, and tree removal is a matter of public concern in El Dorado County.”

about 1,500 feet before traveling another 2,200 feet across private property to the Reservoir 1 WTP. The total length of this alignment is about 12,300 feet, about 3,100 feet shorter than the proposed project.

The pipeline connection at the Forebay Reservoir valve house and the inlet structure at Reservoir 1 WTP would be the same as the proposed project. The portion of the pipeline installed beneath the existing ditch would also “be constructed in the same manner as the proposed Project.” With respect to “[t]he transition between the non-constructed sections of ditch and constructed sections of ditch,” the draft EIR explains that there would be “a graded slope . . . to allow normal gravity flow of stormwater within the channel to be conveyed as under the current (No Project) conditions.” More on this later.

Portions of the pipeline “that would go through cross-country terrain . . . would be placed underground and the surface would be regraded with a two-percent cross slope over the pipe for maintenance purposes.” Finally, as previously indicated, most of this alternative alignment would be installed beneath Blair Road. Pipeline construction along the roadway would be significantly different than placing it along the ditch alignment. However, because this aspect of the project is not at issue in this appeal, we decline to describe it in any detail.

### *The District’s Compliance with CEQA*

In June 2015, the District issued an initial study and notice of preparation.<sup>3</sup> During the subsequent 30-day public review and comment period, the District held a

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<sup>3</sup> “[A]n initial study is the preliminary environmental analysis [citation] and its purposes include ‘[p]rovid[ing] the lead agency with information to use as the basis for deciding whether to prepare an EIR or negative declaration,’ ‘[e]nabl[ing] an applicant or lead agency to modify a project, mitigating adverse impacts before an EIR is prepared, thereby enabling the project to qualify for a negative declaration,’ and ‘[p]rovid[ing] documentation of the factual basis for the finding in a negative declaration that a project

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