

EIR for Water Ditch to Pipeline Conversion Adequately Described Project and Analyzed Impacts to Resources



ect
ntly
mpacts to
District,

El

Dorado County relies exclusively on surface water—and the interconnected system of ditches and pipelines that moves it—to meet its potable water demands. In 2017, the El Dorado Irrigation District proposed to underground a three-mile portion of this system, known as the "Upper Main Ditch," to prevent water loss and improve water quality. The pipeline was originally slated to follow the alignment of the existing ditch, but an alternative route that instead tracked nearby Blair Road was ultimately approved. In the approved alternative, the El Dorado Irrigation District would abandon its authority related to the existing ditch, including easements for maintenance, but the ditch would remain intact to convey stormwater runoff consistent with its current flow capacity. Appellants challenged the project approval, contending that (1) the project description omitted the crucial fact that the existing ditch was the "only drainage system" for the watershed, and (2) the EIR failed to properly analyze impacts to hydrology, biological resources, and wildfire risks. The court held that the project

description adequately described the importance of the existing ditch to the local watershed. The description acknowledged the ditch currently accommodated storm water flows up to a 10-year storm event capacity, and straightforwardly revealed that the Blair Road Alternative would result in abandonment of the maintenance easement along the existing ditch. The irrigation district was not required to specifically state, even if true, that the ditch was the watershed's "only drainage system." The court does not require perfection, but rather "adequacy, completeness, and a good faith effort at full disclosure." The court also held that the EIR adequately analyzed all environmental impacts. First, regarding hydrology, appellants contended the EIR failed to analyze the likelihood that the abandoned ditch would become clogged with debris or vegetation after the irrigation district relinquished maintenance authority, citing a comment letter from El Dorado County. The court disagreed. An EIR must address "reasonably foreseeable indirect effects," but skepticism that a property owner might intentionally fill the ditch is not within this requirement. While there was a risk that the ditch would become clogged due to lack of attention (e.g., overgrowth of vegetation), the EIR provided a sufficient response, explaining that property owners had an incentive to monitor the ditch to prevent flooding and avoid potential civil liability. The disagreement between the irrigation district and the county on this point did not render the EIR inadequate. Likewise, the irrigation district thoroughly explained and supported its analysis of impacts to biological resources. Disagreement between the irrigation district and CDFW regarding the impact to riparian habitat was fully disclosed and reasonably addressed. The district also explained in detail, with input from experts, how the reduction in natural water seepage was unlikely to increase bark beetle infestations in trees near the existing ditch. That the project would not result in significant impacts to either of these resources was supported by substantial evidence and appellants did not satisfy their burden to show why the evidence provided was lacking. In response to wildfire risks, the EIR more than adequately addressed the project's impact on fighting wildfires. The irrigation district countered anecdotal information that the ditch was previously used as a water source for firefighting with evidence to the contrary and reasonably concluded that minor infrastructure like the ditch would have little to no impact during major wildfires. Review of CalFIRE strategic plans further confirmed that the ditch was not designated as a fire protection resource.

Authors



[Taylor Jones](#)

Associate

TaylorJones@perkinscoie.com [415.344.7079](tel:415.344.7079)

Blog series

California Land Use & Development Law Report

California Land Use & Development Law Report offers insights into legal issues relating to development and use of land and federal, state and local permitting and approval processes. [View posts by topic](#). [Subscribe ?](#)

[View the blog](#)