

**WEST SACRAMENTO AREA FLOOD CONTROL AGENCY  
SOUTHPORT SACRAMENTO RIVER  
EARLY IMPLEMENTATION PROJECT (BORROW ONE  
PROJECT)**

**FINDINGS OF FACT AND STATEMENT OF  
OVERRIDING CONSIDERATIONS**

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# Acronyms and Abbreviations

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AB	Assembly Bill
Board	City of West Sacramento Board of Supervisors
CEQA	California Environmental Quality Act
DWSC	Deep Water Ship Channel
EIP	Early Implementation Project
EIR	environmental impact report
FEMA	Federal Emergency Management Agency's
FOS	Factor of Safety
NFIP	National Flood Insurance Program
NOA	Notice of Availability
NOP	Notice of Preparation
PRC	Public Resources Code
TCR	tribal cultural resource
SB	Senate Bill
SEIR	Subsequent Environmental Impact Report
Southport project	Southport Sacramento River Early Implementation Project
Statement	Statement of Overriding Considerations
WSAFCA	West Sacramento Area Flood Control Agency's

# Chapter 1

## Introduction

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This document provides a brief summary of the Borrow One project—a borrow site evaluated in support of the Southport Sacramento River Early Implementation Project (EIP) (Southport project) and the environmental review process. It contains the Findings of Fact (Findings) of the West Sacramento Area Flood Control Agency’s (WSAFCA’s) Board of Directors (Board) for each significant environmental effect identified in the Final Subsequent EIR (Final SEIR) that is either additional to or of greater severity than those significant effects disclosed in the Southport Final Environmental Impact Report (EIR) (California Environmental Quality Act [CEQA] Guidelines Section 15091). This document also provides a Statement of Overriding Considerations (Statement), as required by State CEQA Guidelines Section 15093, providing rationale in support of the Board’s determination that the benefits of the project outweigh its unavoidable significant environmental effects.

## Project Summary

The Southport project involves the construction of approximately 5.6 miles of flood risk–reduction measures along the Sacramento River South Levee in West Sacramento, Yolo County, California. Flood risk–reduction measures include the construction of a setback levee, a slurry cutoff wall, and seepage berms to address deficiencies of through-seepage, under-seepage, slope stability and geometry, erosion, and encroachments and noncompliant vegetation.

Successful construction of the Southport project will depend in part on WSAFCA’s ability to acquire two distinct types of borrow material, referred to as Type I and Type II. Type II borrow material is needed to construct the clay core of the new setback levees in accordance with U.S. Army Corps of Engineers design criteria. WSAFCA has determined that efficient, cost-effective construction of the flood risk–reduction measures identified in the Southport project could best be achieved through inclusion of a Type II borrow material site close to the Southport project construction area.

Subsequent to adoption of the Southport project, WSAFCA identified an additional borrow site in the Southport project vicinity, referred to as the Borrow One site, that contains borrow material needed for construction of the Southport project. Use of this additional site—referred to as the Borrow One project (proposed project)—would entail excavating borrow material to construct the flood risk–reduction measures proposed as part of the Southport project, as well as reclamation of the site once borrow activities are complete. Reclamation of the site would involve deeper excavation at the east end of the site to construct a retention pond; the excavated material from the pond would be spread across the rest of the site to restore drainage and prepare the site for agricultural use.

Inclusion of the Borrow One site in the Southport project constitutes an additional discretionary action by WSAFCA. Additionally, substantial evidence suggests that the proposed project constitutes a major change in the Southport project that may result in a substantial increase in the severity of previously identified significant effects. Accordingly, WSAFCA prepared a Subsequent EIR to provide an opportunity for public review and comment on the proposed project and its potential environmental effects, mitigation measures, and alternatives.

## Environmental Review Process

On August 14, 2014, the WSAFCA Board certified the Southport Final EIR (State Clearinghouse Number 2011082069).

To initiate preparation of the Subsequent EIR, WSAFCA submitted a Notice of Preparation (NOP) to the Yolo County Clerk/Recorder and State Clearinghouse on March 1, 2016. The NOP was circulated by certified mail to responsible and trustee agencies, as well as any party previously requesting notice of the proposed project. Additionally, the NOP was mailed to all residents and landowners located within 500 feet of the proposed project site. No public meeting was held.

The 30-day scoping period began March 2, 2016, and ended March 31, 2016. During the scoping period, eight public and agency responses were received. WSAFCA reviewed and considered all public comments in preparing the Subsequent EIR.

Because the Southport Final EIR analyzed the permanent and temporary effects of borrow activities on sites (like the Borrow One site) consisting of farmland, and because the proposed project would not result in an overall increase in the Southport project's borrow activities as disclosed in the Final EIR, most of the proposed project's effects were adequately disclosed in the Final EIR. As directed by the State CEQA Guidelines, the analysis in the Draft SEIR closely considered only new or substantially more severe significant effects not previously analyzed in the Final EIR. Accordingly, a streamlined approach to the SEIR was adopted.

The Draft SEIR was circulated for public review in April 2016 for a 45-day public comment period from April 11 to May 25, 2016. To initiate this public comment period, WSAFCA circulated a Notice of Availability (NOA) to Responsible and Trustee Agencies as defined under CEQA, involved federal agencies, and parties previously requesting information on the proposed project. The NOA was provided to the California Office of Planning and Research and the County Clerk of Yolo County on April 11, 2016. In response to this outreach effort, four comment letters addressing the Draft SEIR were submitted to WSAFCA. The Final SEIR presented the comment letters and responses to all comments included therein.

Having received, reviewed, and considered the Final SEIR, as well as all other information in the administrative record on this matter, the following Findings are made, and a Statement is adopted by WSAFCA in its capacity as the CEQA lead agency. These Findings and Statement set forth the environmental basis for current and subsequent discretionary actions to be undertaken by WSAFCA and responsible agencies to implement the project.

## California Environmental Quality Act Requirements

CEQA, Public Resources Code (PRC) Section 21000 et seq., requires a lead agency to make written findings of project effects when a lead agency decides to approve a project for which an EIR has been certified (PRC Section 21081). Section 15091 of the State CEQA Guidelines (CCR Title 14) states, in part:

- (a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effect of the project unless the public agency makes one or more written finding for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
  - (1) Changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
  - (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
  - (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

The findings required by subsection (a) shall be supported by substantial evidence in the record.

The documents and other materials that constitute the administrative record upon which WSAFCA based its decision and these findings are held by the City of West Sacramento and can be reviewed at the following location.

West Sacramento City Hall  
1110 West Capitol Avenue, Second Floor  
West Sacramento, CA 95691

## Findings of Fact

In accordance with State CEQA Guidelines Section 15091, the following findings and supporting facts address each significant environmental effect of the project that has either been introduced by the proposed project or that would result in effects of increased severity compared to the disclosures presented in the Southport Final EIR. The findings described below are organized by resource issue, in the same order as the effects are discussed in Chapter 3, *Affected Environment and Environmental Consequences*, of the Final SEIR. The findings reference the Final SEIR (which is part of the record upon which WSAFCA based its decision), the Southport Final EIR, and environmental commitments and mitigation measures. Environmental commitments are listed in Volume I, Chapter 2, Table 2-21 of the Southport Final EIR.

## Findings Regarding Impacts That Will be Mitigated to Below a Level of Significance (State CEQA Guidelines Section 15091[a][1])

One new significant effect that will be mitigated to below a level of significance was identified in the Final SEIR. WSAFCA, having reviewed and considered the information contained in the Final SEIR and pursuant to PRC Section 21081 and State CEQA Guidelines Section 15091(a)(1), adopts the following findings regarding the significant effects of the proposed project that were not fully disclosed and evaluated in the Southport Final EIR.

### Effect FR-8: Change in Under-Seepage Associated with Excavation of Borrow Material

Findings: WSAFCA hereby makes finding (a)(1), as stated in State CEQA Guidelines Section 15091 and as required by PRC Section 21081, with respect to the above-identified effect.

#### Facts Supporting the Finding:

1. Analysis of existing conditions revealed that both the Deep Water Ship Channel (DWSC) east levee and South Cross levee fail to meet U.S. Army Corps of Engineers design criteria for allowable seepage exit gradient and slope stability Factor of Safety (FOS). Modeled increases of seepage resulting from the initial excavation and final reclamation of the borrow site could result in a potentially significant change in under-seepage conditions because existing conditions in excess of U.S. Army Corps of Engineers seepage exit gradient and FOS criteria could be worsened by project implementation.
2. This effect is significant because the changes in under-seepage could degrade levee stability of the DWSC east levee and the South Cross levee.
3. Implementation of *Mitigation Measure FR-MM-4: Monitor Project Site for Seepage and Remediate Effects through Maintenance and Operation Activities* (p. 3-5) would reduce this effect to a less-than-significant level.

## Findings Regarding Infeasible Mitigation Measures (State CEQA Guidelines Section 15091[a][3])

One effect of the proposed project would be substantially more severe than disclosed in the Southport Final EIR, and one new significant effect was identified in the Final SEIR. WSAFCA, having reviewed and considered the information contained in the Final SEIR, and in accordance with PRC Section 21081 and State CEQA Guidelines Section 15091(a)(3), makes the following findings regarding the significant and unavoidable effects of the Southport project. The FEIR identifies mitigation measures that could reduce the severity of significant effects. However, implementation of these mitigation measures cannot be assured to reduce the severity of significant effects to below a level of significance because the degree of future impacts and the feasibility and success of future mitigation measures cannot be adequately known.

These findings are appropriate because there are no feasible mitigation measures available that would reduce the identified effects to below a level of significance. “Feasible” is defined in Section 15364 of the State CEQA Guidelines to mean “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.” Section 15019(a)(3) of the State CEQA



Guidelines also provide that “other” considerations may form the basis for a finding of infeasibility.

### **Effect LU-3: Loss of Important Farmland and Agricultural Production Value**

Findings: WSAFCA hereby makes finding (a)(3), as stated in State CEQA Guidelines Section 15091 and as required by PRC Section 21081, with respect to the above-identified effect.

#### Facts Supporting the Finding:

1. The analysis in the Southport Final EIR concluded that the loss of approximately 27 acres of prime farmland was a significant and unavoidable effect. An additional 25.5 acres of prime farmland would be lost through creation of a pond as part of the site reclamation process. The loss of an additional 25.5 acres would result in a total loss of approximately 52.5 acres of prime farmland, a substantial increase over those effects disclosed in the Final EIR.
2. This loss of prime farmland constitutes a significant and unavoidable effect because any loss of prime farmland is considered a significant effect pursuant to Appendix G of the State CEQA Guidelines.
3. The combined implementation of *Mitigation Measures GEO-MM-1: Implement the Reclamation Actions of a Project-Specific Reclamation Plan* and *LU-MM-1: Provide Compensatory Agricultural Land Protection* as set forth in the Southport Final EIR would reduce the severity of this effect but would not reduce it to a less-than-significant level.
4. WSAFCA considered two other alternatives in the Final SEIR: the No Project Alternative and Alternative 1—Borrow One Site Without Pond. Implementation of either of these alternatives would reduce the severity of this effect. Under the No Project Alternative, the Borrow One site would not be used as a source of borrow material for construction of the Southport project and the property would continue in its present capacity as prime farmland for the foreseeable future. Borrow material that would have been extracted from the Borrow One site would be obtained from commercial offsite sources located within 20 miles of the Southport project, resulting in environmental effects as described and analyzed in the Final EIR, including lengthy haul truck travel distances and associated expenditures of fuel and vehicular emissions. Under Alternative 1, the Borrow One site would instead be graded to an elevation of 1 foot below its current grade and Type II material deficit would be met through acquisition of additional material from an offsite commercial source, as described under the No Project Alternative. Consequently, the pond would not be constructed, eliminating the Borrow One project’s substantially increased contribution to the Southport project’s already significant and unavoidable loss of important farmland.

### **Effect CUL-5: Effects on Tribal Cultural Resources Associated with Excavation of Borrow Material**

Findings: WSAFCA hereby makes finding (a)(3), as stated in State CEQA Guidelines Section 15091 and as required by PRC Section 21081, with respect to the above-identified effect.

#### Facts Supporting the Finding:

1. Assembly Bill (AB) 52 became law on January 1, 2015, and applies to projects that have a notice of preparation or notice of negative declaration/mitigated negative declaration filed on or after

July 1, 2015. Because certification of the Southport Final EIR preceded passage of AB 52, effects on tribal cultural resources (TCRs) were not analyzed in the Southport Final EIR. However, such an analysis was required for the SEIR. Coordination efforts between WSAFCA and the tribes have not resulted in identification of any known TCRs. However, excavation of borrow material has the potential to damage any unknown TCRs that potentially occur in the borrow areas.

2. Damage of previously unknown TCRs would constitute a significant effect pursuant to AB 52 because TCRs by their nature may be buried with little surface manifestation or may be regional in nature; consequently, they may be disturbed before they can be discovered.
3. Implementation of CUL-MM-5, which WSAFCA adopted for all borrow activities as part of the Southport project, would reduce the risk of harm to TCRs, but not to a less-than-significant level.
4. WSAFCA considered two other alternatives in the Final SEIR: the No Project Alternative and Alternative 1—Borrow One Site Without Pond. Under the No Project Alternative, the Borrow One site would not be used as a source of borrow material for construction of the Southport project. Borrow material that would have been extracted from the Borrow One site would be obtained from commercial offsite sources located within 20 miles of the Southport project, resulting in environmental effects as described and analyzed in the Final EIR, including lengthy haul truck travel distances and associated expenditures of fuel and vehicular emissions. Alternative 1 would still contribute to a significant and unavoidable effect on cultural resources, as excavation of the site would still occur.

## Significant Cumulative Effects

### Land Use and Agriculture

**Findings:** WSAFCA hereby makes finding (a)(3), as stated in State CEQA Guidelines Section 15091 and as required by PRC Section 21081, with respect to the above-identified effect.

#### Facts Supporting the Findings:

1. The proposed project would result in the conversion of some land use types and farmland, particularly prime farmland, to open water through the construction of the proposed irrigation pond.
2. Although the loss of prime farmland would only amount to 25.5 acres, and the remainder of the site would be reclaimed to at least preconstruction levels of productivity, nevertheless, conversion of agricultural land in Yolo County is a primary concern related to land use, and it is a significant cumulative effect because it is an irretrievable loss of a finite resource.
3. The implementation of project-specific mitigation measures would reduce the project's contribution to this cumulative effect. However, when combined with the cumulative conversion of farmland related to other projects in the region, the proposed project would contribute to a significant and unavoidable cumulative effect on land use and agriculture.

## Findings Regarding Alternatives (State CEQA Section 15091[a][3])

Because the proposed project would cause one or more unavoidable significant environmental effect, WSAFCA must make findings with respect to the alternatives to the project considered in the

SEIR, evaluating whether these alternatives could feasibly avoid or substantially lessen the unavoidable significant effects while achieving most of the project's goals and objectives.

WSAFCA, having reviewed and considered the information contained in the FEIR and in accordance with PRC Section 21081 and State CEQA Guidelines Section 15091(a)(3), finds Alternative 1 to be both feasible and environmentally superior with respect to the unavoidable significant impacts identified in the Final SEIR, as described in Chapter 4 of the Final SEIR.

## Chapter 3

# Statement of Overriding Considerations

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## CEQA Requirements

CEQA prohibits an agency from approving a project that will have significant, unavoidable environmental impacts unless the agency adopts a statement describing the specific benefits provided by the project that will outweigh its expected unavoidable impacts. If the project's specific economic, legal, social, technological, or other benefits outweigh the unavoidable adverse environmental effects, those effects may be considered acceptable, notwithstanding the fact that they cannot be avoided. This "statement of overriding considerations" must be supported by substantial evidence (State CEQA Guidelines Section 15093).

WSAFCA recognizes that despite full implementation of the environmental commitments and mitigation measures, the proposed project would have significant, unavoidable impacts on the environment that either were not addressed in the Southport Final EIR or that are of substantially increased severity. These effects are listed below.

- Effect LU-3: Loss of Important Farmland and Agricultural Production Value
- Effect CUL-5: Effects on Tribal Cultural Resources Associated with Excavation of Borrow Material

## Overriding Considerations

As required by the State CEQA Guidelines Section 15093, WSAFCA finds that the unavoidable significant effects listed above are outweighed by the agricultural and environmental benefits offered by the Borrow One project, as well as the ability to provide a nearby source of borrow material that can be extracted and hauled to the Southport project site without exceeding the transportation, noise, air quality, and climate change effects described in the Final EIR.

## Agricultural and Environmental Benefits

Implementation of the proposed project would include construction of an approximately 25.5 acre irrigation pond. While construction of the pond would result in more substantial loss of prime farmland under the larger Southport project, the pond would provide an important source of material to restore the remainder of the parcel to grade and to provide a source of irrigation water to support agricultural productivity on the remainder of the parcel. Securing reliable sources of water for irrigation purposes has become more critical due to California's ongoing drought conditions. In addition, while not dedicated as mitigation for impacts on wildlife, the pond could be used as habitat by wildlife species that currently use riparian areas in the adjacent Lake Shangri-La and Glide Lake, as well as by migratory waterfowl.

## Reduction of Environmental Effects

The objective of the proposed project is to provide WSAFCA's contractor with a nearby source of needed Type II borrow material that can be extracted and hauled to the Southport project site without exceeding the transportation, noise, air quality, and climate change effects described in the Final EIR. Implementation of Alternative 1 or the No Project Alternative would reduce WSAFCA's ability to accomplish this objective, which would require WSAFCA to obtain suitable borrow material from commercial offsite sources, resulting in environmental effects as described and analyzed in the Final EIR, including lengthy haul truck travel distances and associated expenditures of fuel and vehicular emissions. While the implementation of the proposed project would likely still result in these effects being significant and unavoidable, they would be reduced when compared to the use of offsite borrow material, as described in Chapter 3 of the Final SEIR.

WSAFCA finds that the above-referenced benefits outweigh the Borrow One project's significant and unavoidable environmental effects. Therefore, WSAFCA has adopted these Findings and Statement.