

CHAPTER 8

Environmental Review and Agency Consultation/Coordination

This chapter summarizes public and agency involvement activities undertaken by NBWRA and Reclamation that have been conducted to date for the proposed project, and which satisfy CEQA and NEPA requirements for public scoping and agency consultation and coordination. **Appendix 8A** presents the distribution list that identifies the entities receiving a copy of the draft EIR/EIS. As noted previously, U.S. Bureau of Reclamation (Reclamation) is the lead agency pursuant to NEPA, and Sonoma County Water Agency (SCWA) is acting as the Lead Agency under CEQA.

Since the initial phases of project development in 2005, NBWRA has engaged and consulted with agencies, stakeholders, landowners, and the general public. The consultations assisted the NBWRA in determining the scope of the Environmental Impact Report (EIR)/ Environmental Impact Statement (EIS), identifying the range of alternatives and mitigation measures, and defining potential environmental impacts and impact significance. Consultation included informal agency communications, formal interagency meetings, and public meetings. NBWRA will continue to solicit public and agency input on the project by encouraging review of this EIR/EIS.

8.1 Stakeholder Consultation

The communication strategy for the proposed project involves informing and involving the public about the project, as well as engaging agencies and other stakeholders to partner and collaborate together to move the project forward for public and agency review. To carry-out these goals, a multi-phase public and stakeholder involvement process, involving meetings, newspaper ads, newsletters, and a project website, were developed to establish relationships with stakeholders and community awareness of the project. Between 2005 and the public scoping process in 2008, the NBWRA conducted meetings with lead agencies, city and county governments and local water agencies, environmental and stakeholder groups, homeowners associations in the action area, and potentially affected landowners.

The Member Agencies of NBWRA initially planned on individual recycled water project that were examined and refined through the Engineering Report and Feasibility Study discussed below.

Phase 1 Engineering Foundation Report (2003-2005): Member Agencies, potential stakeholders, local, state and regional agencies helped define alternatives. NBWRA, established under a

Memorandum of Understanding (MOU) in August 2005, undertook cooperative planning efforts over a 30-month period- including 17 bi-monthly technical workshops as well as monthly institutional workshops, with extensive outreach to potential Project stakeholders to define shared objects and develop feasible alternatives toward definition of region-wide water reclamation and reuse project that would enable them to meet those objectives. Under the MOU, Camp, Dresser & McKee, Inc. (CDM) prepared a Phase 1 Engineering Foundation Report. The report, completed in March 2005, represented the submittal of initial results- preliminary information on demands in the study area, possible project configuration, and preliminary cost estimates. This initial report analyzed 15 alternatives.

Phase 2 Feasibility Study Report (2006-2008) and Phase 3 Feasibility Study Report (2009): Project is introduced to public through stakeholders meetings and the NBWRA website.

The Phase 2 report, completed in June 2006 and the Phase 3 report, completed in 2009, present an engineering evaluation of a proposed project for a regional approach to use of recycled water in the North San Pablo Bay Area of California. The report describes the Proposed Project area and the key water management problems and needs within the Project area, identifies water reuse opportunities in the project area, develops and analyzes alternative measures that could address the identifies water management needs, and presents an overview of associated legal and institutional requirements.

Concurrent with the technical workshops and feasibility study activities, the Member Agencies initiated public outreach efforts to collect grower or end user information at a broad scale within each Member Agency's service area. Outreach meetings were conducted which identified potential Project participants, discussed grower concerns and needs, reviewed land use mapping for accuracy, and discussed projected future changes in the agricultural industry within each service area. The ongoing outreach efforts are developing agricultural reuse contacts and working towards securing commitments to use recycled water. As Project activities carry on, potential users will continue to be invited to periodically attend NBWRA meetings and meetings with other growers and local industry representatives, and review handouts or reports. Recent public outreach efforts include a series of stakeholder meetings in the study area to introduce the Project to the general public, and development of the NBWRA's Project website, to provide information to the public on the NBWRA and the status of the Title XVI feasibility study process.

8.2 Notice of Preparation and Notice of Intent

NBWRA prepared and distributed several notification packages to inform interested parties of the scoping period and upcoming public scoping meetings.

On July 25, 2008, NBWRA (with SCWA as Lead Agency) published and distributed a Notice of Preparation (NOP) of an EIR to advise interested agencies and the public. The NOP was directly mailed to 63 government agencies and officials, and interested parties, and a postcard notification of the NOP's availability was sent to 580 parties. On July 28, 2008, Reclamation published a Notice of Intent (NOI) to prepare an EIS in the Federal Register to advise interested agencies and the public of the public comment period.

8.3 Scoping Activities

Public scoping activities are conducted as part of compliance with both NEPA and CEQA, but are more formalized under NEPA. Scoping is intended to assist in identifying the final range of actions, alternatives, site design options, environmental resources, and mitigation measures that will be analyzed in an environmental document. The scoping process helps ensure that problems are identified early and properly studied and also helps to eliminate from detailed study those issues that are not critical to the decision at hand.

The approximately 30-day scoping comment period extended from July 25, 2008 through August 28, 2008. The public was invited to submit written comments on the scope, content, and format of the project and environmental analysis by mail, fax, or email to representatives at SCWA or through the NBWRA's project website.

8.3.1 Stakeholder Outreach

During the Public Scoping process, the NBWRA met with potentially interested agencies and stakeholders in May 2008 to provide an overview of the proposed project alternatives and solicit their input. The objective of this effort was to obtain public input on issues as early as possible in the environmental review process.

8.3.2 Stakeholder Meetings

NBWRA and SCWA conducted six stakeholder meetings, two in each of the counties (Marin, Sonoma, and Napa) encompassing the NBWRA service areas, from May 6 through May 8, 2008. The format of each stakeholder meeting program was identical and began with a 15-minute open house during which participants could view exhibit boards with project information including an overview of the regional context, project objectives and purposes, possible alternatives, environmental issues, and the environmental review process. Participants were also encouraged to ask informal questions of project team members to understand the project objectives and alternatives. A formal 20-minute presentation focused on the process, schedule, and role of public comments. Following the presentation, 20 minutes were allotted for public comments on the scope, content, and format of the environmental document. Comments were accepted in writing and project team staff recorded oral comments.

8.3.3 Scoping Meetings

During the Public Scoping Process, NBWRA and SCWA conducted formal scoping meetings to gather input and comments prior to the development of the EIR/EIS. Four meetings were held at the locations below. Approximately 55 people attended the four meetings.

August 4, 2008
6:30 p.m. – 7:30 p.m.
Napa Elks Lodge
2804 Soscol Avenue,
Napa

August 5, 2008
6:30 p.m. – 7:30 p.m.
Margaret Todd Senior
Center
1560 Hill Road, Novato

August 6, 2008
6:30 p.m. – 7:30 p.m.
Sonoma Community
Center
276 East Napa Street,
Sonoma

August 6, 2008
9:30 a.m. – 10:30 a.m.
ESA Petaluma Offices
1425 N. McDowell
Boulevard, Petaluma

The format of each public scoping meeting program was similar to the stakeholder meeting format discussed above. The meeting began with a 30-minute open house during which participants could view exhibit boards with project information including an overview of the regional context, project objectives and purposes, possible alternatives, environmental issues, and the environmental review process. Participants were also encouraged to ask informal questions of project team members to understand the project objectives and alternatives.

Participants were encouraged to sign in and were provided with materials including an agenda, presentation slides, and a comment card. Copies of the NOI and the NOP were available upon request. A formal 20-minute presentation focused on the process, schedule, and role of public comments. Following the presentation, 20 minutes were allotted for public comments on the scope, content, and format of the environmental document. Comments were accepted in writing and project team staff recorded oral comments.

8.3.4 Scoping Report

A Scoping Report was prepared for the NBWRA Agency Members and Reclamation. The report included an overview of scoping requirements; a summary of all comments made during the scoping process, both written and verbal; a description of the issues anticipated to be addressed in the EIR/EIS; and an appendix that included hard copies of all written comments, summaries of the scoping meetings, and other project-related print materials used to inform interested parties about the Proposed Action, project alternatives, and the EIR/EIS.

8.3.5 Public Information Materials

In addition to the NOP, NOI, and Scoping Report, several informational materials were publicly distributed to inform stakeholders about the Proposed Action to solicit their input. These materials are described below.

Newspaper Notices

A press release on the NOP notification was published in the *Santa Rosa Press Democrat*, *Marin Independent Journal*, *Napa Sentinel*, and *Napa Valley Register*, the primary newspapers in the action area, on Friday, July 25, 2008. The advertisements announced SCWA and Reclamation's intention to prepare an EIR/EIS, the places and times of the scoping meetings, SCWA contact information, and the availability of information on the project website and Member Agency's websites.

Notices and press releases were also published individually by Member Agencies including the Novato Sanitary District Newsletter, and a press release by the Napa Sanitation District.

Web Sites and Contact Information

Information on the project, and the environmental review process the environmental analysis was made available through the project website and by contacting NBWRA.

NBWRA Website

The NBWRA website, www.nbwra.org, includes detailed information about the proposed project and relevant studies and reports. The NOP document was posted on the website. Online comments were accepted on the website during the NOP review period.

Local Agency Websites

All the local agency members have had information about the NBWRA on their local agency websites:

Las Gallinas Valley Sanitary District (LGVSD): <http://www.lgvsd.org/>

Novato Sanitary District (Novato SD): <http://www.novatosan.com/>

Napa Sanitation District (Napa SD): <http://www.napasanitiationdistrict.com/>

Napa County: <http://www.co.napa.ca.us/>

North Marin Water District (NMWD): <http://www.nmwd.com/>

SCWA: <http://www.scwa.ca.gov/>

Single Point of Contact E-mail Address

The NBWRA maintains a single e-mail address, info@nbwra.org, to make it easier for the public to communicate with the project team. Most e-mails are responded to within a few hours. All e-mails are tracked and followed up on.

Single Point of Contact Phone Hotline

The NBWRA maintains a phone number hotline, (707) 547-1923, as a single point of contact for all phone calls. The phone is answered round-the-clock by an answering service. The project received a number of calls from the public and press were received during the NOP period. Most phone calls have been responded to within a few hours of receiving them. All calls are tracked and followed up on.

General Notification Flyer

Reclamation prepared and NBWRA mailed a stakeholder meeting notification flyer to approximately 220 interested organizations, agencies, elected officials, and residents. A follow-up email was sent to 139 stakeholders with email addresses.

Conference Participation

NBWRA participated in the North Bay Watershed Conference in April 2008. NBWRA representatives provided hand outs on project information and answered questions. NBWRA also participated in the North Creek Watershed Climate Forum on October 1, 2008. The event was sponsored by Sustainability Novato. NBWRA had a table and representatives with information and maps of our project. The project also prepared and had available a special information handout on recycled water sustainability issues. The forum was advertised on the NBWRA website.

Outreach Efforts in the Napa Milliken-Sarco-Tulucay (MST) Area

In addition to the scoping invitation letter there were two other letters mailed to the entire Napa SD service area, one in April and another in October, 2008. Napa County staff participated in several public forums sponsored by a community group called Groundwater Under Local Protection (GULP), as well as in meetings and phone calls with individuals and groups. Both Napa County and Napa SD have provided information and notices about the larger regional NBWRA project and the details of the Napa MST portion of the project. Napa SD released a press story in 2008 about expansion of their recycled water system into an area that connects to the MST area.

8.4 Additional Steps in the Environmental Review Process

In accordance with CEQA and NEPA review requirements, this EIR/EIS will be circulated for public and agency review and comment for a 45-day period following the publishing of the Notice of Availability (NOA) of the EIS by Reclamation, and filing of the Notice of Completion (NOC) with the California State Clearinghouse by SCWA or NBWRA.

Similar to the approach to public scoping, three public hearings have been scheduled in Napa County, city of Novato, and Sonoma County to receive public input on the Draft EIR/EIS. These three public hearings will be held during the public comment period so that any comments received at the meetings can be addressed in the Final EIR/EIS. In addition, written comments from the public, reviewing agencies and stakeholders will be accepted during the public comment period. Following consideration of these comments, a Final EIR/EIS will be prepared and circulated per NEPA and CEQA requirements that will include responses to all comments. SCWA and Reclamation will use the Final EIR/EIS when considering approval of the Proposed Action or an alternative. If the proposed project or other alternative is approved, SCWA will accept CEQA findings and issue a Notice of Determination (NOD) and Reclamation will issue a Record of Decision (ROD) to document that decision.

8.5 Ongoing Agency and Stakeholder Consultation and Coordination

SCWA and Reclamation will continue to proactively engage interested agencies and stakeholders throughout the NEPA, CEQA, and project permitting processes. In particular, SCWA and Reclamation will continue to have regular meetings with the NBWRA Coordination Committee and Member Agencies. SCWA will also meet as needed with other agencies with potential jurisdiction over the Proposed Action, including U.S. Army Corps of Engineers, San Francisco Bay Regional Water Quality Control Board, State Water Resources Control Board, State Lands Commission, California State Office of Historic Preservation, California Department of Public Health, Bay Area Air Quality Management District, and others.

8.6 Compliance with Federal Statutes and Regulations

This section describes the status of compliance with the relevant federal laws, executive orders, and policies, and the consultation that has occurred to date or will occur in the near future.

Table 8-1 summarizes the status of consultation for the requirements that must be met by Reclamation and SCWA and/or individual Member Agencies prior to implementation of the Proposed Action.

Most of these regulations listed in Table 8-1 involve ongoing compliance, which would occur in coordination with preparation of this EIR/EIS. Chapter 3 of this EIR/EIS describes the project impacts.

8.6.1 Federal Endangered Species Act

Pursuant to the Federal Endangered Species Act (FESA), U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) have authority over projects that may result in take of a federally listed species. Under FESA, the definition of “take” is to “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.” USFWS has also interpreted the definition of “harm” to include significant habitat modification that could result in take. If there is a likelihood that a project would result in take of a federally listed species, either an incidental take permit, under Section 10(a) of FESA, or a federal interagency consultation, under Section 7 of FESA, is required.

Either an Action Specific Implementation Plan (ASIP) or a Biological Assessment (BA) could be used to address the FESA and California State Endangered Species Act and the California Natural Community Conservation Planning Act (NCCPA) consultation requirements of federal and state agencies. Because the BA to be prepared for the selected project alternative focuses on issues specific to the Proposed Action, it will therefore address the biological assessment requirements. Reclamation will initiate formal consultation with USFWS and NMFS. USFWS and NMFS will then use the BA to develop biological opinions relative to the Proposed Action. DFG will use the BA to address compliance with the California Endangered Species Act and the NCCPA.

8.6.2 Clean Water Act

The Clean Water Act (CWA) is the primary surface water protection legislation throughout the country. The CWA aims to restore and maintain the chemical, physical, and biological integrity of surface waters to support “the protection and propagation of fish, shellfish, and wildlife and recreation in and on the water.” The U.S. Environmental Protection Agency is the Federal agency with primary authority for implementing regulations adopted pursuant to the CWA, and has delegated the authority to implement and oversee most of the programs authorized or adopted for CWA compliance to U.S. Army Corps of Engineers (USACE) and the Regional Water Quality Control Boards (RWQCB).

**TABLE 8-1
SUMMARY OF ENVIRONMENTAL COMPLIANCE FOR THE PROPOSED PROJECT**

Requirements	Status of Compliance/Expected Completion
National Environmental Policy Act	Ongoing until this EIR/EIS Record of Decision is published
California Environmental Quality Act	Ongoing until this EIR/EIS document is certified and mitigation met
Federal Endangered Species Act and California Endangered Species Act	Ongoing until project Biological Opinion issued (see Section 3.5, Biological Resources)
Magnuson-Stevens Fishery Conservation and Management Act	Ongoing until project Biological Opinion or ASIP issued (see Section, 3.5 Biological Resources)
Clean Water Act Section 401	SCWA will apply for Water Quality Certification after EIR/EIS is approved and project design underway (see Sections 3.5, Biological Resources, and Section 3.4, Water Quality)
Clean Water Act Section 404	SCWA will apply for Wetland Permit after the EIR/EIS is approved and project design underway (see Section 3.5, Biological Resources)
Clean Air Act	In compliance. Conformity analysis is not required. (see Section 3.8, Air Quality)
National Historic Preservation Act and Native American Consultation	Ongoing. Once Section 106 review process is completed, the project will proceed in accordance with conditions stipulated in the agreement with the State Historic Preservation Officer and appropriate agencies (see Section 3.12, Cultural Resources)
Executive Order 11988 - Floodplain Management	Ongoing. The project complies by using this EIR/EIS to identify and assess project effects (see Section 3.2, Surface Hydrology)
Executive Order 11990 - Protection of Wetlands	SCWA will apply for Wetland Permit after the EIR/EIS is approved and project design underway (see Section 3.5, Biological Resources)
Executive Order 12898 - Environmental Justice	In compliance based on EIR/EIS Section 3.16, Environmental Justice.
Migratory Bird Treaty Act	Reclamation and SCWA will comply with provisions of the Migratory Bird Treaty Act (see Section 3.5, Biological Resources)
California Fish and Game Code (Section 1600 Lake or Streambed Alteration Agreement Program)	Ongoing. The project complies with Section 1600 by using this EIR/EIS to identify and address expected project effects (Section 3.5, Biological Resources)
Caltrans Encroachment Permit	SCWA will apply for a Caltrans Encroachment Permit to construct within Caltrans right-of-way prior to construction (see Section 3.7, Transportation and Circulation)
Disabilities Regulations - Americans with Disabilities Act, Rehabilitation Act, and Architectural Barriers Act	Project adheres to the construction guidelines of the Uniform Federal Accessibility Standards and complies with regulations proposed for incorporation into the Americans With Disabilities Act Accessibility Guidelines as a part of design for individual facilities.
Farmland Protection Policy Act	Ongoing. (see Section 3.6, Land Use and Agricultural Resources)
Section 10 of the Rivers and Harbors Act of 1899	Ongoing. This regulation is addressed in coordination with other wetlands regulations (see Clean Water Act, Section 404, above)
NPDES Construction Stormwater Permit	SCWA will comply by preparing and using a Storm Water Pollution Prevention Plan at the time of construction (see Section 3.2, Surface Hydrology)
General Order for Dewatering and Other Low Threat Discharge to Surface Waters	SCWA will comply by preparing and using a permit at the time of construction (see Section 3.2, Surface Hydrology)

8.6.3 Section 10 of the Rivers and Harbors Act of 1899

Under Section 10 of the Rivers and Harbors Act of 1899, the construction of structures in, over, or under, excavation of material from, or deposition of material into “navigable waters” are regulated by USACE. Navigable waters of the United States are defined as those waters subject to the ebb and flow of the tide shoreward to the mean high-water mark or those that are currently used, have been used in the past, or may be susceptible to use to transport interstate or foreign commerce. A Letter of Permission or permit from the USACE is required prior to any work being completed within navigable waters.

NBWRA Member Agencies will obtain the necessary permits from USACE prior to beginning any project-related work in navigable waters.

8.6.4 Section 106 of the National Historic Preservation Act

Section 106 of the National Historic Preservation Act (NHPA) of 1966 (as amended in 1992) requires Federal agencies to evaluate the effects of Federal undertakings on historical, archaeological, and cultural resources, and to consult with the Advisory Council on Historic Preservation concerning potential effects of Federal actions on historic properties. Before Federal funds are approved for a particular project or prior to the issuance of any license, the effect of the project on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register shall be evaluated.

To comply with the NHPA, notices of public meetings for this project will be sent to the State Historic Preservation Officer (SHPO), which acts as an intermediary for the Advisory Council on Historic Preservation. A copy of this Draft EIR/EIS will be sent to SHPO, as a unit of the California Department of Parks and Recreation, requesting its review and soliciting input on the project. SCWA and Reclamation will coordinate with the Advisory Council on Historic Preservation and SHPO, consistent with Section 106 of the NHPA. A Phase I Cultural Resources Report has been prepared and submitted to Reclamation. Reclamation will use these document to complete Section 106 Consultation with SHPO.

Native American Consultation

Implementing regulations for Section 106 require that Federal agencies identify potentially affected Indian tribes that might have knowledge of sites of religious and cultural significance in the area of potential effects (APE) (36 CFR 800.3[f][2]). If any such properties exist, the regulations require that Federal agencies invite Indian tribes to participate in the Section 106 process as consulting parties.

The Native American Heritage Commission (NAHC) was contacted on April 28, 2008 to request a database search for sacred lands or other cultural properties of significance within or adjacent to the APE. A response was received on April 28, 2008. The sacred lands survey did not identify the presence of cultural resources in the APE. The NAHC provided a list of Native American contacts that might have further knowledge of the action area with respect to cultural resources.

Each person or organization identified by the NAHC was contacted by telephone on April 15, 2008. A meeting was held on June 27, 2008 between ESA archaeologist Heidi Koenig, California State Parks archaeologist Breck Parkman, Nick Tipon and Ken Tipon of the FIGR. The meeting was primarily informational; a general project description was given and preliminary results from the records and literature review as well as initial survey results were outlined.

Additional consultation occurred when ESA archaeologist Heidi Koenig and Nick Tipon of the FIGR conducted a supplemental survey of six locations within the APE on September 4, 2008. The purpose of this effort was to introduce Mr. Tipon to areas previously delineated as sensitive for cultural resources and incorporate any of his additional comments and perspective towards known cultural resources. Consultation with the NAHC is ongoing.

8.6.5 Farmland Protection Policy Act

The Farmland Protection Policy Act (FPPA) is intended to minimize the impact of Federal programs with respect to the conversion of farmland to nonagricultural uses. It ensures that, to the extent possible, Federal programs are administered to be compatible with state, local, and private programs and policies to protect farmland. The Natural Resources Conservation Service (NRCS) is the agency primarily responsible for implementing the FPPA. Agricultural resources are addressed in Section 3.6 “Land Use and Agriculture”. SCWA and Reclamation will submit this EIR/EIS to the NRCS for its comment.

8.6.6 Executive Order 11988 (Floodplain Management)

Executive Order 11988—Floodplain Management (May 24, 1977) directs Federal agencies to issue or amend existing regulations and procedures to ensure that the potential effects of any action it may take in a floodplain are evaluated and that its planning programs and budget requests reflect consideration of flood hazards and floodplain management. Guidance for implementation of the Order is provided in the floodplain management guidelines of the U.S. Water Resources Council (40 CFR 6030; February 10, 1978) and in *A Unified National Program for Floodplain Management*, prepared by the Federal Interagency Floodplain Management Taskforce.

SCWA and Reclamation have considered Executive Order 11988 in their development of this EIR/EIS and have complied with this order.

8.6.7 Executive Order 11990 (Protection of Wetlands)

The purpose of Executive Order 11990 is to “minimize the destruction, loss or degradation of wetlands and to preserve and enhance the natural and beneficial values of wetlands.” To meet these objectives, the Order requires Federal agencies, in planning their actions, to consider alternatives to wetland sites and limit potential damage if an activity affecting a wetland cannot be avoided. The Order applies to:

- acquisition, management, and disposition of Federal lands and facilities construction and improvement projects which are undertaken, financed or assisted by Federal agencies; and

- Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulation, and licensing activities.

SCWA and Reclamation have considered Executive Order 11990 in their development of this EIR/EIS and have complied with this order. SCWA has taken a number of actions to minimize project effects on wetlands (see **Section 3.5, Biological Resources**) and will be pursuing a Clean Water Act Section 404 permit from USACE.

8.6.8 Executive Order 12898 (Environmental Justice)

Executive Order 12898, Section 2-2, requires all Federal agencies to conduct programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons the benefits of, or subjecting persons to discrimination because of their race, color or national origin. Section 1-101 requires Federal agencies to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of programs on minority and low-income populations. This Draft EIR/EIS has identified and described the project's potential to result in disproportionately high and adverse human health or environmental effects on minority and low-income populations (see **Section 3.15, Environmental Justice**), as required by this order.

