

Supplemental Environmental Assessment for the 2002 Renewal of Interim Water Service Contracts through February 29, 2004

Central Valley Project, California

February 2002

Bureau of Reclamation
Mid-Pacific Region
2800 Cottage Way
Sacramento, California 95825-1898



CHAPTER 1

PURPOSE AND NEED

1.1 INTRODUCTION

In accordance with Section 3404(c) of the Central Valley Project Improvement Act (CVPIA), the Bureau of Reclamation (Reclamation) proposes to execute interim water service contracts for up to a two year period from March 1, 2002 through February 29, 2004. Initial interim contracts will be for a one year period from March 1, 2002 through February 28, 2003. If negotiations and the required environmental review necessary to execute long-term renewals to replace interim contracts is not completed by March 1, 2003, some or all of these interim water service contracts will be renewed for a second year through February 29, 2004. Reclamation has prepared this supplemental Environmental Assessment (EA) to determine if any actions occurring from an extended interim period of up to two years from March 1, 2002 until February 29, 2004 will result in any potential impacts not analyzed in the 1994 EA, the 1998 Supplemental EA, the 2000 Supplemental EA, and the 2001 Supplemental EA. These four previous documents are incorporated by reference into this analysis. Interim renewal of these contracts is necessary to continue delivery of Central Valley Project (CVP) water until the long-term contracts are executed. Contracts proposed for interim renewal are listed in Table 1.

The environmental analysis was developed consistent with regulations and guidance from the Council on Environmental Quality, and in conformance with the analysis provided in *NRDC v. Patterson*, Civ. No. S-88-1658

Table 1 - 2002 Interim Renewal Contracts - Central Valley Project

| Division/Contractor | Contract Number | Contract Quantity (acre-feet) |
|---|------------------------|--|
| <u>American River Division</u> | | |
| San Juan Water District | 14-06-200-152A-IR6 | 11,200 |
| El Dorado Irrigation District | 14-06-200-949-IR6 | 23,000 |
| El Dorado Irrigation District | 14-06-200-7312-IR5 | 50 |
| <u>Cross Valley Canal</u> | | |
| Fresno, County of | 14-06-200-8292A-IR6 | 3,000 |
| Hills Valley Irrigation District | 14-06-200-8466A-IR6 | 3,346 |
| Kern-Tulare Irrigation District | 14-06-200-8601A-IR6 | 40,000 |
| Lower Tule River Irrigation District | 14-06-200-8237A-IR6 | 31,102 |
| Pixley Irrigation District | 14-06-200-8238A-IR6 | 31,102 |
| Rag Gulch Water District | 14-06-200-8367A-IR6 | 13,300 |
| Tri-Valley Water District | 14-06-200-8565A-IR6 | 1,142 |
| Tulare, County of | 14-06-200-8293A-IR6 | 5,308 |
| <u>Delta Division</u> | | |
| Banta-Carbona Irrigation District | 14-06-200-4305A-IR6 | 25,000 |
| Broadview Water District | 14-06-200-8092-IR6 | 27,000 |
| Centinella Water District | 7-07-20-W0055-IR6 | 2,500 |
| Del Puerto Water District | 14-06-200-922-IR8 | 140,210 |
| Eagle Field Water District | 14-06-200-7754-IR6 | 4,550 |
| Laguna Water District | 2-07-20-W0266-IR6 | 800 |
| Mercy Springs Water District | 14-06-200-3365A-IR6-A | 7,040 |
| Oro Loma Water District | 14-06-200-7823-IR6 | 4,600 |
| PajaroValley WMA, Westlands WD, Santa Clara VWD | 1-06-200-3365A-IR6-B | 6,260 |
| Patterson Water District | 14-06-200-3598A-IR6 | 16,500 |
| Plain View Water District | 14-06-200-785-IR8 | 20,600 |
| West Side Irrigation District, The | 7-07-20-W0045-IR6 | 7,500 |
| West Stanislaus Irrigation District | 14-06-200-1072-IR8 | 50,000 |
| Widren Water District | 14-06-200-8018-IR6 | 2,990 |
| <u>Sacramento River Division</u> | | |
| Colusa, County of | 14-06-200-8310A-IR6 | 60,000 |
| Colusa County Water District | 14-06-200-304A-IR6 | 62,200 |
| Corning Water District | 14-06-200-6575-IR6 | 23,000 |
| Davis Water District | 14-06-200-6001A-IR6 | 4,000 |
| Dunnigan Water District | 14-06-200-399A-IR6 | 19,000 |
| Feather Water District | 14-06-200-171A-IR7 | 20,000 |
| Glide Water District | 7-07-20-W0040-IR6 | 10,500 |
| Kanawha Water District | 14-06-200-466A-IR6 | 45,000 |
| Kirkwood Water District | 7-07-20-W0056-IR6 | 2,100 |
| La Grande Water District | 7-07-20-W0022-IR6 | 5,000 |
| Orland-Artois Water District | 14-06-200-8382A-IR6 | 53,000 |
| Proberta Water District | 14-06-200-7311-IR6 | 3,500 |
| Thomes Creek Water District | 14-06-200-5721A-IR6 | 6,400 |
| Westside Water District | 14-06-200-8222-IR6 | 25,000 |
| <u>Shasta Division</u> | | |
| Shasta Lake, City of | 4-07-20-W1134-IR8 | 2,750 |
| <u>Trinity Division</u> | | |
| Bella Vista Water District | 14-06-200-851A-IR7 | 24,000 |
| Clear Creek CSD | 14-06-200-489A-IR7 | 15,300 |

(Patterson). In Patterson the Court found that "...[on]going projects and activities require NEPA [National Environmental Policy Act] procedures only when they undergo changes amounting in themselves to further 'major action'." In addition the court went further to state that the NEPA statutory requirement applies only to those changes. The analysis in this draft

supplemental and incorporated EA finds in large part that the interim renewal of the contracts is in essence a continuation of the “status quo,” that is, they continue the existing use and allocation of resources (i.e., the same amount of water is being provided to the same lands for existing/ongoing purposes).

The 2001 Supplemental EA is included in Appendix B and the 1995 EA and the 1998 Supplemental EA are incorporated by reference and available by request. This 2002 Supplemental EA provides the sections that have updated information, additional discussions, or table changes from the 2001 and 2000 Final Supplemental EAs.

1.3 BACKGROUND OF INTERIM CONTRACTS

Section 3409 of the CVPIA stipulates that Reclamation must prepare a programmatic environmental impact statement (PEIS) before renewing long-term CVP water service contracts. The PEIS was completed in October of 1999 and a Record of Decision approved on January 9, 2001. Reclamation is preparing tiered site-specific environmental documentation for long-term contract renewals (LTCR). LTCR NEPA documentation was completed in early 2001 for the Friant Division, and the Cross Valley Canal (CVC), Hidden, and Buchanan Units. Twenty-five of the 28 Friant Division long-term contracts were executed in January of 2001. The Hidden Unit long-term contract and the Buchanan Unit long-term contract were approved in March of 2001. The CVC Unit’s Federal long-term environmental compliance and contract negotiations are essentially complete. Final execution of CVC Unit long-term contracts is pending. CVC Unit Contractors will need interim contracts if long-term contracts are not executed before March 1, 2002 and are therefore included in this proposed action.

Reclamation is completing the contract negotiations and site-specific environmental documentation for long-term contracts with interim contractors in the American River, Delta, Sacramento River, San Felipe, Shasta, and Trinity Divisions.

1.4 PURPOSE AND NEED FOR ACTION

The purpose of the proposed action is to execute interim contracts for up to two years between March 1, 2002 through February 29, 2004. Execution of interim contracts is needed to continue delivery of CVP water to interim contractors until the long-term contracts can be executed.

1.5 ISSUES RELATED TO CVP WATER USE UNDER THE PROPOSED INTERIM CONTRACTS

1.5.2 Interim Water Contract Service Areas

No changes to district boundaries are part of the proposed action. Appropriate environmental compliance and documentation will be completed for any request from interim contractors for Reclamation approval of boundary changes.

1.5.3 Water Transfers

No water transfers are part of the proposed action. Appropriate environmental compliance and documentation will be completed for any request from interim contractors for Reclamation approval of water transfers.

1.5.4 Water Assignments

Potential impacts arising from future assignments of water are not included in the proposed action. They are separate independent actions and would require their own environmental compliance.

1.6 PUBLIC INVOLVEMENT

The public was invited to review and comment on the draft 2002 Supplemental EA for a 30-day review period. The deadline for comments on the draft Supplemental EA ended on January 7, 2002. During the public review period, five written comment letters were received. Appendix D provides a copy of each letter with Reclamation's responses.

CHAPTER 2

ALTERNATIVES

2.1 PROPOSED ACTION ALTERNATIVE

The proposed action alternative evaluated in this document is the execution of interim renewal water service contracts between the United States and the contractors in Table 1. The terms and conditions of the Existing Interim Renewal Contract (sample 2001 draft contract provided in Appendix B, 2001 EA) are incorporated by reference into this proposed contract except for the revision of Article 2. Article 2 is revised as follows:

(a) The first sentence in Subdivision (a) of Article 2 of the Existing Interim Renewal Contract is deleted, and the following is inserted in lieu thereof: “This interim renewal contract shall be effective from March 1, 2002, and shall remain in effect through February 28, 2003, and thereafter will be renewed as described in this Article if a long-term renewal contract has not been executed with an effective commencement date of March 1, 2003.”

(b) Subdivision (b)(1) of Article 2 of the Existing Interim Renewal Contract is amended by deleting the date “November 30, 2001,” and replacing same with the date “February 15, 2003.”

(c) Subdivision (b)(2) of Article 2 of the Existing Interim Renewal Contract is amended by deleting the dates "February 1, 2002," "February 15, 2002," and "February 28, 2002," and replacing same with the dates "February 1, 2003," "February 15, 2003," and "February 28, 2003," respectively.

These revisions would take effect on the date of the execution of the 2002 interim contract. Except for date changes, the interim contracts will remain the same as those executed in 2001. A sample 2002 draft interim contracts is provided in Appendix A.

The proposed action alternative is comparable to alternative 1, continuation of existing interim contracts, analyzed in the 2000 Supplemental EA. The period of renewal for each contract would be for one year, as permitted under subsection 3404(c)(1) of CVPIA. The current contract provisions are those that are included in the existing interim renewal contracts and specified in the 2001 Supplemental EA. They contain only minor variations from the provisions described in the 1994 EA, the 1998 Supplemental EA, and the 2000 Supplemental EA. If long-term contracts are not executed by March 1, 2003, a one year extension of these interim contracts (March 1, 2003 through February 29, 2004) may be executed. Prior to a second year extension action, that action will be evaluated to determine if additional NEPA analysis is necessary. Depending on that evaluation, either additional NEPA documentation will be prepared, or a finding made that no significant changes in actions or circumstances has occurred, or substantial new information has been obtained since this 2002 Supplemental EA.

2.2 ALTERNATIVES CONSIDERED BUT ELIMINATED FROM FURTHER ANALYSIS

2.2.1 Nonrenewal of Interim Contracts

Nonrenewal of existing contracts is considered infeasible based on Section 3404(c) of the CVPIA. This alternative was considered but eliminated from analysis in this EA because Reclamation has no discretion not to renew the contracts.

2.2.2 REDUCTION IN INTERIM CONTRACT AMOUNTS

Reduction in contract amounts due to current delivery constraints on the CVP system identified in the PEIS was considered in certain cases, but rejected from analysis for several reasons. First, water needs analyses have been completed for all contracts, and in almost all cases, the needs exceed or equal the current total contract amount. Second, the shortage provision of the contract protects the Contracting Officer from liability from the shortages in water allocations that exist due to drought, other physical constraints, and actions taken to meet legal or regulatory requirements. Such action include, for example, actions to implement the CVPIA, which has dedicated significant amounts of CVP water to environmental uses and which provides funding from the contractors to improve habitat and to acquire water for environmental purposes. Third, retaining the full historic water quantities under contract provides the contractors with assurance the water will be made available in wetter years and helps to support investments for local storage, water conservation improvements and capital repairs.

CHAPTER 3

AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES

3.3 BIOLOGICAL RESOURCES

3.3.1 ALTERNATIVE

The fifth paragraph from the 2001 Supplement EA is revised as follows:

CVP-wide impacts to biological resources have been evaluated in the PEIS, and a FWS Biological Opinion to address potential CVP-wide impacts was completed on November 21, 2000. CVC Unit Contractors' potential impacts to biological resources have been evaluated in the CVC Unit Contractors Long-Term Contract Renewal Environmental Assessment (January 2001), the CVC Unit Contractors Long-Term Contract Renewal Regional Biological Assessment (January 17, 2001), the Biological Opinion on U.S. Bureau of Reclamation Long Term Contract Renewal of Friant Division and CVC Unit Contracts (FWS-January 19, 2001), and the Biological Opinion for the Long-Term Renewal of CVP Water Service Contracts for the Friant Division and CVC Unit Contractors (NMFS-January 20, 2001). The programmatic biological opinion and Essential Fish Habitat Conservation Recommendations prepared by NMFS for the CVPIA was completed on November 14, 2000.

The following paragraph is included at the end of this section:

The FWS Biological Opinion for 2002 interim contracts is included in this Final 2002 Supplemental EA and presents the commitments that Reclamation will undertake during the proposed interim renewal period to address any identified potential impacts.

CHAPTER 4

CONSULTATION AND COORDINATION

The public was invited to review and comment on the draft 2002 Supplemental EA for a 30-day review period. The deadline for comments on the draft Supplemental EA ended on January 7, 2002. During the public review period, five written comment letters were received. Appendix D provides a copy of each letter with Reclamation's responses.

Reclamation consulted and coordinated with the US Fish and Wildlife Service, the National Marine Fisheries Service, and the interim water service contractors, in the preparation of the environmental documents for the proposed action.

4.1 ENDANGERED SPECIES ACT

Reclamation has completed section 7 consultations with National Marine Fisheries Service (NMFS) and Fish and Wildlife Service (FWS) pursuant to the Endangered Species Act (ESA). These consultations cover the interim contract renewals (IRC) from March 1, 2002 through February 29, 2004.

Reclamation has completed formal consultation with the FWS for the two year period of interim contract renewals or until long-term CVP water service contracts are executed with the interim contractors. In 2000, Reclamation completed formal consultation on IRCs, and the FWS issued a biological opinion dated February 29, 2000. On February 28, 2001, the FWS issued a memorandum extending the 2000 biological opinion through February of 2002. In February 2002, the FWS issued a biological opinion amending the

February 2000 biological opinion which extended the 2000 biological opinion through February of 2004.

Reclamation consulted formally on the CVC Unit long-term water service contracts and received a biological opinion on January 19, 2001. For the CVC Unit Contractors in the interim contract period, Reclamation and the CVC Unit Contractors have committed to comply with the requirements of the long-term contract biological opinion.

Reclamation completed consultation on interim contracts with NMFS for a period of up to two years. NMFS, by letter dated February 22, 2002, concurred with Reclamation's determination that the renewal of 2-year interim water service contracts will not likely adversely effect Sacramento River winter-run chinook salmon, Central Valley spring-run chinook salmon, Southern Oregon/Northern California Coast coho salmon, Central Valley steelhead, or their designated critical habitat. Formal consultation on the CVC Unit's long-term water service contracts was completed in January 2001. Reclamation and the CVC Unit Contractors have committed to comply with the NMFS long-term contract BO as part of the approval of these interim contracts. Thus, Reclamation believes that this consultation process to be mainly administrative in nature.