

# RECLAMATION

## *Managing Water in the West*

Finding of No Significant Impact

## Cross-Valley Contractors Interim Renewal Contracts

FONSI-12-048

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# Introduction

In accordance with section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, as amended, the South-Central California Area Office of the Bureau of Reclamation (Reclamation), has determined that an environmental impact statement is not required for renewal of the Cross Valley Contractors' interim renewal contracts. This Finding of No Significant Impact is supported by Reclamation's Environmental Assessment (EA) 12-048, *Cross-Valley Contractors Interim Renewal Contracts*, which is attached and hereby incorporated by reference.

## Background

On October 30, 1992, the President signed into law the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102-575) which included Title 34, the Central Valley Project Improvement Act (CVPIA). The CVPIA amended previous Central Valley Project (CVP) authorizations to include fish and wildlife protection, restoration, and mitigation as project purposes having equal priority with irrigation and domestic water supply uses, and fish and wildlife enhancement as having an equal priority with power generation. Through the CVPIA, Reclamation is developing policies and programs to improve the environmental conditions that were affected by the operation and maintenance (O&M) and physical facilities of the CVP. The CVPIA also includes tools to facilitate larger efforts in California to improve environmental conditions in the Central Valley and the Sacramento-San Joaquin River Delta (Delta) system.

Section 3404(c) of the CVPIA directs the Secretary of the Interior to renew existing CVP water service and repayment contracts following completion of a Programmatic Environmental Impact Statement (PEIS) and other needed environmental documentation by stating that:

*... the Secretary shall, upon request, renew any existing long-term repayment or water service contract for the delivery of water ... for a period of 25 years and may renew such contracts for successive periods of up to 25 years each ... [after] appropriate environmental review, including preparation of the environmental impact statement required in section 3409 [i.e., the CVPIA PEIS] ... has been completed.*

Reclamation released a Draft PEIS on November 7, 1997. The U.S. Fish and Wildlife Service (USFWS) became a co-lead agency to the PEIS in August 1999. An extended comment period closed on April 17, 1998. Reclamation and the USFWS released the Final PEIS in October 1999 (Reclamation 1999) and the Record of Decision (ROD) in January 2001. The CVPIA PEIS considered a No Action Alternative, five Main Alternatives, including a Preferred Alternative, and fifteen Supplemental Analyses. The alternatives included implementation of the following programs/provisions:

- Anadromous Fish Restoration Program with flow and non-flow restoration methods and fish passage improvements;

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- Reliable Water Supply Program for refuges and wetlands identified in the 1989 Refuge Water Supply Study and the San Joaquin Basin Action Plan;
- Protection and restoration program for native species and associated habitats;
- Land Retirement Program for willing sellers of land characterized by poor drainage; and
- CVP Water Contract Provisions addressing contract renewals, water pricing, water metering/monitoring, water conservation methods, and water transfers.

The CVPIA PEIS provided a programmatic evaluation of the impacts of implementing the CVPIA, including impacts to CVP operations north and south of the Delta. The PEIS addressed the CVPIA's region-wide impacts on communities, industries, economies, and natural resources and provided a basis for selecting a decision among the alternatives.

Interim renewal contracts (IRCs) have been and continue to be undertaken under the authority of the CVPIA to provide a bridge between the expiration of the original long-term water service contracts and the execution of new long-term water contracts as required by the CVPIA. The IRCs reflect current Reclamation Law, including modifications resulting from the Reclamation Reform Act and applicable CVPIA requirements. The initial IRCs were negotiated in 1994 with subsequent renewals for periods not to exceed three years to provide continued water service. Many of the anticipated long-term contract renewal provisions contained in the description of the PEIS Preferred Alternative were incorporated into the IRCs.

The PEIS did not analyze site-specific impacts of contract renewal but rather CVP-wide impacts of long-term contract renewal. Consequently, as contract renewal negotiations were completed, Reclamation prepared environmental documents that tiered from the PEIS to analyze the local effects of contract renewals at the division, unit, or facility level. Tiering is defined as the coverage of general matters in broader environmental impact statements with site-specific environmental analyses for individual actions. This environmental analysis for the IRCs has also tiered from the PEIS to analyze site specific impacts. Consequently, the analysis in the PEIS as it relates to the implementation of the CVPIA through contract renewal and the environmental impacts of implementation of the PEIS Preferred Alternative are foundational and laid the groundwork for this document. The PEIS analyzed the differences in the environmental conditions between existing contract requirements (signed prior to CVPIA) and minimum implementation of the CVPIA.

The Cross Valley Canal (CVC) is a locally-owned canal that was constructed in the mid-1970s through a collaborative effort of several local, state and federal water agencies. The CVC allows water to be conveyed between the California Aqueduct (Aqueduct) and the Friant-Kern Canal (FKC). Beginning in 1975, the first Cross Valley (CV) contractors entered into three-party contracts with Reclamation and Department of Water Resources (DWR). Pursuant to these contracts, Reclamation provided long-term water service and DWR provided conveyance for the CV contractors.

Although the CV contractors are situated on the eastside of the San Joaquin Valley amongst the Friant Division CVP contractors (who receive their CVP supplies stored in Millerton Lake via the FKC), the CV contractors' CVP water is pumped from the Delta by DWR and/or

Reclamation. Due to direct conveyance hurdles, Reclamation envisioned that the CV contractors would obtain their CVP supplies via exchanges. The exchange arrangements are set forth in Article 5(a) of the CV contractor's water service contract, which in part states that "...the parties acknowledge that Project Water furnished to the Contractor...shall be delivered to the Contractor by direct delivery via the CVC and/or by exchange arrangements involving Arvin-Edison Water Storage District (AEWSD) or others. The parties further acknowledge that such arrangements are not transfers subject to Section 3405(a) of the CVPIA."

Table 1 identifies the seven Cross Valley (CV) contractors, their subcontractors (if any), and whether or not they also have a Friant Division CVP contract.

**Table 1 List of Cross Valley Contractors**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <sup>1</sup> County of Fresno                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <sup>2</sup> County of Tulare                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <sup>4</sup> Hills Valley Irrigation District                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <sup>3,4</sup> Kern Tulare Water District                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <sup>4</sup> Lower Tule River Irrigation District                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Pixley Irrigation District                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <sup>4</sup> Tri-Valley Water District                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <sup>1</sup> County of Fresno includes Fresno County Service Area #34<br><sup>2</sup> County of Tulare subcontractors include Alpaugh Irrigation District, Atwell Water District, Hills Valley Irrigation District, Saucelito Irrigation District <sup>4</sup> , Stone Corral Irrigation District <sup>4</sup> , City of Lindsay <sup>4</sup> , Strathmore Public Utility District, Styrotek, Inc., and City of Visalia<br><sup>3</sup> Kern Tulare Water District and Rag Gulch Water District consolidated on January 1, 2009.<br><sup>4</sup> Lower Tule River Irrigation District, Saucelito Irrigation District, Stone Corral Irrigation District, Tri-Valley Water District, Kern-Tulare Water District, Hills Valley Irrigation District, and City of Lindsay receive CVP water under more than one contract, either as a Friant and/or CV Contractors. |

The current IRCs for the CV contractors expire on February 28, 2014. The CV contractors and Reclamation evaluated the renewal of the IRCs under EA 12-048 for another two-year period following expiration of the contracts in 2014.

## Proposed Action

In accordance with and as required by Section 3404(c) of the CVPIA, Reclamation proposes to execute IRCs with the CV contractors. There are up to eight contracts involved in this action because the Kern-Tulare Water District consolidated their boundaries with the Rag Gulch Water District, resulting in two separate IRCs for the Kern-Tulare Water District.

The interim renewal of the CV contracts discussed in the EA represents a portion of the continuing operations of the CVP and as noted, was an action considered in the PEIS pending execution of long-term contracts. Renewal of the contracts is required by Reclamation Law, including the CVPIA, and continues the current use and allocation of resources by CV contractors, within the framework of implementing the overall CVPIA programs.

The Proposed Action includes two components: 1) execution of up to eight IRCs with the seven CV contractors for another two-year interim renewal period and 2) approving the CV contractors' Article 5 exchange arrangements with individually proposed exchange partners to coincide with the IRCs.

### **Execution of Interim Renewal Contracts**

The Proposed Action involves the execution of up to eight IRCs between Reclamation and the CV contractors. All seven of the CV contractors have an existing IRC, which will expire on February 28, 2014, and all have had several IRCs executed prior to their existing IRC. The CV contractors are currently in their fourteenth IRC and the proposed renewal would be the fifteenth. The Proposed Action would continue these existing IRCs, with only minor, administrative changes to the contract provisions to update the previous IRC for the new contract period. In the event that a new long-term water contract is executed, that IRC would be superseded.

No changes to any of the CV contractor's respective service areas or water deliveries are part of the Proposed Action. CVP water deliveries under the eight proposed IRCs can only be used within each designated contract service area. The proposed 2014 IRC quantities would also remain the same as in the existing IRCs. Water can be delivered under the IRCs in quantities up to the contract total, although it is likely that deliveries would be less than the contract total.

### ***Comparison of Proposed Action and No Action Alternative***

The primary difference regarding the IRCs between the Proposed Action and the No Action Alternative is that the Proposed Action does not include tiered pricing. Section 3405(d) of the CVPIA does not require tiered pricing to be included in contracts of three years or less in duration. Therefore water pricing would be at a fixed rate even if contract quantities delivered exceed 80 percent, the threshold which would trigger incremental rate modifications under a tiered pricing system.

### **Article 5 Exchange Arrangements**

In addition, Reclamation proposes to approve the CV contractors' exchange arrangements with individually proposed exchange partners for the 2014 and 2015 contract years (March 1, 2014 through February 29, 2016) for up to the full CV contractors' CVP contract supply of 128,300 acre-feet per year (AF/y). The Proposed Action would also include the continued historical exchanges between the CV contractors and AEWS.

Due to varying hydrological conditions, loss due to evaporation and/or seepage, differences in the value of water, and/or timing, imbalanced exchanges could occur. Consistent with historical practices, imbalanced exchange arrangements (meaning that the volumes of water exchanged are not equal) would be permitted up to a maximum ratio of 2:1. Proposed exchange arrangements exceeding this volume ratio would require additional environmental review and approval.

Article 55 of State Water Project (SWP) contracts allows for DWR to convey non-SWP water for SWP Contractors within available capacity in the Aqueduct. Under this scenario, a SWP contractor could request DWR to convey a CV contractor's CVP water, if capacity exists, in the Aqueduct.

CVP water is tracked from its origin to its final disposition (end use) and does not lose its Federal characteristics under California water rights permits. Water supplies would be used in compliance with the applicable water rights permits and would conform to the applicable purpose and place-of-use of the associated water rights permit.

## Environmental Commitments

The CV Contractors will implement the following environmental protection measures to reduce environmental consequences associated with the Proposed Action (Table 1). Environmental consequences for resource areas assume the measures specified would be fully implemented.

**Table 2 Environmental Protection Measures and Commitments**

| Resource         | Protection Measure                                                                                                                                                                                                                                                                |
|------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Land Use/Habitat | No native or untitled land (fallow for three consecutive years or more) may be cultivated with this water.                                                                                                                                                                        |
| Multiple         | No new construction or modification of existing facilities would take place as part of the proposed action.                                                                                                                                                                       |
| Water            | No changes in the point of diversion or places-of-use would be allowed without prior approvals from the State Water Resources Control Board, Reclamation, and/or DWR as applicable.                                                                                               |
| Water            | Exchanges must not alter the quality of water, or the hydrological regime of natural waterways or natural watercourses such as rivers, streams, creeks, lakes, ponds, pools, or wetlands, etc., in a way that may have a detrimental effect on fish or wildlife or their habitat. |
| Water            | Reclamation would review each exchange proposal for compliance prior to approval and execution of the exchange.                                                                                                                                                                   |
| Water            | Imbalanced exchanges shall not exceed a 2:1 ratio by water volume.                                                                                                                                                                                                                |

Reclamation's South-Central California Area Office has initiated an Environmental Commitment Program in order to implement, track and evaluate the environmental commitments developed for the Proposed Action.

## Findings

Reclamation's finding that implementation of the Proposed Action will result in no significant impact to the quality of the human environment is supported by the following:

### Water Resources

**Interim Renewal Contracts** Impacts to water resources associated with the Proposed Action would be comparable to those described under the No Action Alternative. Renewal of the IRC with only minor administrative changes to the contract provisions would not result in a change in contract water quantities or a change in water use. Water delivery during the IRC period would not exceed historic quantities. Therefore, there would be no effect on surface water supplies or quality.

The delivery of the same quantities of water under the IRCs that have historically been put to beneficial use would not induce growth that would increase water demands. Therefore, the Proposed Action would have no adverse impacts on water resources.

**Article 5 Exchanges** The proposed Article 5 exchanges would not result in any changes to diversion from the Delta or pumping and conveyance of water beyond what was already addressed in the CVPIA PEIS and the Biological Opinion (BO) for the continued long-term operation of the CVP and SWP. No new construction or points of diversions would be required. However, changes in timing and locations of when and where water is diverted could occur.

Since contractors' allocated water may not be available at the time when it is most valuable to them, agreements commonly allow for an imbalanced exchange of the CV contractors' water supplies to compensate for the differential value of the exchanged water when it is delivered. These imbalanced exchanges are allowed up to a maximum ratio of 2:1, meaning that half of the water volume exchanged would be delivered, and the remaining half would be retained by the entity executing the exchange.

The Proposed Action would not contribute to or interfere with flood control management and operations. The Proposed Action and imbalanced exchanges would not increase or decrease the availability of flood water nor inhibit or contribute to decisions to accept or reject this source of water.

**Groundwater** Because the San Joaquin Valley is in overdraft conditions, water districts strive to discourage groundwater pumping by providing surface water at affordable prices. Making water exchanges more efficient makes surface water sources more cost-effective, which reduces demand on stressed groundwater resources. It also can make groundwater banking more attractive in areas where storage facilities are available. Banking results in a temporary increase in groundwater during wet years, which is then extracted for use in dryer years when surface water sources are expensive or unavailable. Any banking proposal would require separate review and approval.

### **Biological Resources**

Under the Proposed Action, only minor indirect impacts would occur to biological resources. The species detailed in the EA may be subject to minor impacts due to routine farming activities. Critical habitat and other native lands would not be affected due to restrictions on land use, or because in some cases, the critical habitat lies outside the Proposed Action Area.

Reclamation received a memorandum from the USFWS on February 12, 2014, concurring with the determination that the Proposed Action is not likely to adversely affect the Buena Vista Lake shrew, San Joaquin kit fox, Tipton kangaroo rat, blunt-nosed leopard lizard, Kern mallow, the San Joaquin woolly-threads or critical habitat designated for these species.

### **Socioeconomic Resources**

Although the water to be delivered under the Proposed Action is similar to historical trends, the Proposed Action would allow the CV contractors to plan water deliveries and avoid unnecessary delays in executing exchanges. This helps maintain the stability of the agricultural market and associated industries.

### **Environmental Justice**

The Proposed Action represents a continuation of current conditions. The IRC would help maintain stability of agricultural markets, which improves farm employment opportunities for disadvantaged and minority populations.

## Cumulative Impacts

### *Water*

Cumulative impacts relating to diversion of water and CVP operations were considered in the CVPIA PEIS. Both the Proposed Action and the No Action Alternative would, in essence maintain the environmental status quo, since the same amount of water would go to the same areas for the same uses (albeit under different legal arrangements). Because the renewals of the contracts under either alternative maintain current conditions, they do not contribute to cumulative impacts in any substantive manner.

In recent years, other exchanges between CV contractors and CVP contractors or other water entities have undergone environmental reviews and short-term approvals. It is anticipated these other exchanges would occur over the term of the CV contractors' future water service contracts. These exchanges, when considered together, are not anticipated to create cumulative impacts beyond those already covered by the PEIS or other environmental evaluations.

### *Land Use*

The trend of development in the San Joaquin Valley is toward gradual urbanization as the population grows and rising home prices encourage residential construction in new areas. Changes in land use are subject to approval by city or county planning agencies and the Local Agency Formation Commission, and changes in water service must be approved by Reclamation. Environmental review is required at each stage of these approvals.

A variety of water service transactions routinely occur within the project area, depending on water availability and demand for crops with different water needs. These water service transactions are for the efficient management of water resources and do not contribute to long-term or reliable water supplies that would result in land use changes. Temporary fallowing of lands could also occur, especially during dry and drought seasons.

These conditions are likely to occur under either the Proposed Action or the No Action alternative. The Proposed Action is not anticipated to affect the overall land use trends in the San Joaquin Valley, either individually or cumulatively.

### *Socioeconomics and Environmental Justice*

The Proposed Action is intended to maintain and encourage current economic trends. Stable agricultural markets increase employment opportunities for residents of the San Joaquin Valley. Wages paid to farm laborers have ripple effects in the economy of the area's communities, producing a cumulative benefit.