

Department of the Interior
Bureau of Reclamation
Mid-Pacific Region

Record of Decision

**Water Transfer Program for the San Joaquin River
Exchange Contractors Water Authority 2005-2014**

March 2005

Recommended:



Frank J. Michny
Regional Environmental Officer

Date: 3/22/05

Approved:



Kirk C. Rodgers
Regional Director

Date: 3/24/05

I. Introduction

This document is the Record of Decision of the Department of the Interior, Bureau of Reclamation (Reclamation), Mid-Pacific Region, for the San Joaquin River Exchange Contractors Water Authority's (Exchange Contractors) water transfer program for the period March 1, 2005, through February 28, 2014. The project is the subject of the Final Environmental Impact Statement/Environmental Impact Report (FEIS/EIR) entitled *Water Transfer Program For The San Joaquin River Exchange Contractors Water Authority 2005-2014*, dated December 2004, developed in compliance with the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA).

II. Decision

Reclamation's decision is to proceed with the preferred alternative/proposed action, Alternative C as proposed by the Exchange Contractors, identified in the FEIS/EIR. Reclamation's Federal Action is: (1) acquire water for the wildlife refuges (Incremental Level 4 under the Central Valley Project Improvement Act [CVPIA]), (2) approve transfers and/or exchanges of Central Valley Project (CVP) water from the Exchange Contractors to other CVP contractors, and (3) enter into Environmental Water Account (EWA) contracts that would benefit CVP operations.

The major features associated with the proposed action are:

- Develop up to 130,000 acre-feet of water during noncritical years. Up to 80,000 acre-feet of water would be made available through conservation (including tailwater recovery) and groundwater pumping (up to 20,000 acre-feet), and up to 50,000 acre-feet of water made available through crop idling/temporary land fallowing;
- Develop during critical years, up to 50,000 acre-feet of water. This water would be made available through crop idling/land fallowing. No water would be made available from conservation/tailwater recovery and groundwater sources;
- Provide any or all of the available water from the above alternative to the refuges, agriculture, EWA, and M&I users (M&I deliveries only to Santa Clara and are limited to 29,850 acre-feet) subject to the limitations identified as follows and summarized:
 - Water transfers made available by conservation measures, such as reuse of tailwater, may be only transferred by the Exchange Contractors to CVP contractors in the Delta-Mendota Canal service area, San Luis Unit, San Felipe Division, and San Joaquin Valley refuges (excluding the Tulare Lake Basin wildlife areas). These transfers are referred to herein as "in-basin" transfers and are deemed to meet the reduction in consumptive use/irretrievable loss criteria of CVPIA.

- Water transfers to the Friant Division and the Cross Valley Unit, including Madera ID, Cross Valley Contractors, Kern County, and to the Tulare Lake Basin wildlife areas are limited to water that can be made available by a reduction in consumptive use or irretrievable loss as set forth in Section 3405 of the CVPIA, the 1993 Transfer Guidelines and State Law. In addition, groundwater substitution meeting the requirements outlined in Section 2.3.1 can be used to support out-of-basin transfers.
- The proposed action consists of a range of acquisitions by the Water Acquisition Program (WAP), the CVP contractors, and the EWA agencies in any water year 2005-2014.
- The transfers would be monitored, approved, and reported by Reclamation to calculate the cumulative transfer activity authorized under this FEIS/EIR.

Prior to implementing transfer actions, each action will be evaluated to determine if appropriate NEPA analysis has been completed. If no significant changes in actions or circumstances has occurred, or substantial new information has been obtained, the transfers will be approved based on this Decision.

III. Background and Alternatives Considered

Reclamation and the Exchange Contractors prepared a joint Draft EIR/EIS on the proposed Water Transfer Program. The Exchange Contractors is the state lead agency for the EIR pursuant to the CEQA, and Reclamation is the federal lead agency for the EIS pursuant to the National Environmental Policy Act. Reclamation and the Exchange Contractors subsequently prepared a joint Final EIS/EIR in December 2004. The Exchange Contractors certified the Final EIR under the CEQA and approved the 2005 Transfer program on January 7, 2005. The Exchange Contractors consist of the following member agencies: Central California Irrigation District, San Luis Canal Company, Firebaugh Canal Water District, and Columbia Canal Company.

In addition to the No Action alternative, three primary alternatives were considered:

- **Alternative A (80,000 acre-feet)** would provide up to 80,000 acre-feet of water during noncritical years through a combination of conservation, groundwater, and crop idling/land fallowing sources; and during critical years, up to 50,000 acre-feet of water may be made available through crop idling/land fallowing only. This alternative is similar in quantity to the program implemented annually in 2000-2004, but that program did not include the temporary fallowing/ crop idling component.
- **Alternative B (50,000 acre-feet)** would develop up to 50,000 acre-feet from crop idling/temporary land fallowing in any year. This alternative is both smaller in quantity and limited in the source of developed water.
- **Alternative C (130,000 acre-feet), the preferred alternative**, would develop up to 130,000 acre-feet of water during noncritical years, with up to 80,000 acre-feet of water made available through conservation, tailwater recovery, and groundwater (up to 20,000 acre-feet), and up to 50,000 acre-feet of water made

available through crop idling/temporary land fallowing. During critical years, up to 50,000 acre-feet of water may be made available through crop fallowing, and no water is to be made available from conservation/tailwater recovery and groundwater sources. Alternative C is maximum transfer alternative that combines components of both Alternative A and Alternative B.

IV. Basis of Decision and Issues Evaluated

The alternatives were evaluated on how well they met the project's purpose and need. The purpose of the proposed program is to allow the annual transfer and/or exchange of CVP water from the Exchange Contractors to:

- The WAP to acquire water supplies (Incremental Level 4) for San Joaquin Valley wildlife refuges and the Tulare Lake Basin wildlife areas
- Other CVP contractors to meet demands of agriculture and M&I uses
- DWR or Reclamation for use by the EWA to the extent that this would benefit CVP operations by improving water supply reliability for CVP water users south of the Delta

The proposed temporary water transfers/acquisitions are needed to maximize the use of limited water resources for agriculture, fish and wildlife resources, and M&I purposes with the following objectives:

- Develop supplemental water supplies from willing sellers in the Exchange Contractors service area through water conservation/tailwater recovery, groundwater pumping, and crop idling/fallowing activities consistent with district policies.
- Provide water supplies to the refuges consistent with the Incremental Level 4 water quantities for wildlife habitat development.
- Assist CVP agricultural service contractors to obtain additional CVP water for the production of agricultural crops or livestock because of water supply shortages when full contract deliveries cannot otherwise be made.
- Provide SCVWD with short-term water supplies to support agriculture and/or M&I uses in Santa Clara County when full contract deliveries cannot otherwise be made. M&I supplies are limited to 29,850 acre-feet.

All of the action alternatives met project purposes. While Alternative A (up to 80,000 acre-feet) is the most similar alternative to the previous 5-year temporary transfer program, Alternative C (up to 130,000 acre-feet) has greater potential to maximize water development from all sources for use by a broad range of transferees. It has the greatest potential for alleviating water deficits in any particular year. The No Action Alternative would not meet the purpose and need nor the objectives of the proposed project.

There were a number of environmental issues in several resource areas that were evaluated. A synopsis of the issues associated with transfer water development by the Exchange Contractors and its subsequent disposition (use) is presented below:

- effects on flow and water quality in the San Joaquin River at Vernalis,
- effects on New Melones Reservoir operations and Stanislaus River water users,
- effects on the CVP/SWP's Delta water supply,
- effects on groundwater levels and/or flow patterns,
- effects on wetlands, special-status species, and aquatic habitat,
- effects on agricultural and outdoor recreation land uses,
- socioeconomic and environmental justice effects,
- air quality effects, and
- effects on Indian Trust Assets.

No one alternative is clearly the environmentally preferred alternative. Rather, the environmentally preferred alternative depends upon the particular resource under evaluation. For the key resource issues of water quality at Vernalis and New Melones Reservoir operation/storage, Alternative C is environmentally preferred because it has the fewest adverse impacts combined with benefits under some scenarios.

- Water quality improvement in the San Joaquin River is greatest with delivery of water to agriculture with hydraulic connectivity to the San Joaquin River and to those not hydraulically connected. The greatest benefits are associated with Alternative C, followed by Alternative A.
- Because flows and water quality at Vernalis are regulated by New Melones Reservoir operations, the primary effect of the action alternatives is on storage in New Melones with its implications for water allocations. Positive values indicate an increase in storage (and decrease in flow to the lower Stanislaus River). The greatest potential negative effects to New Melones occur when all of the available water is transferred to refuges in the San Joaquin River Basin. Alternative B has the greatest potential impact (-3,200 acre-feet per year), and Alternative C has the smallest potential impact (-2,500 acre-feet per year).
- The greatest potential negative effects to the CVP/SWP's Delta water supply occur when all of the available water is transferred to entities without hydraulic connectivity to the San Joaquin River. Alternative B has the smallest potential impact (-5,200 acre-feet), and Alternative C has the greatest potential impact.
- Alternative C would provide greater benefits to wetland habitat than Alternatives A or B.

V. Environmental Commitments

Mitigation Monitoring and Reporting:

The primary mechanism for mitigation of impacts identified above is Reclamation's transfer approval process, which determines any limitations on the sources of water developed by the Exchange Contractors as well as any limitations on the disposition of water by the parties to whom the transfer is made in the year of the transfer or in a subsequent year. The mitigation requirements of the transfer approval process will provide for three objectives: no significant adverse impact to the CVP as a whole (i.e., the CVP must be made whole); no significant adverse impact to the federal investment in the CVP; and no significant adverse impact to the environment. Reclamation is responsible, through the transfer approval process, for ensuring that the transfer is consistent with the transfer requirements, the mitigation requirements and any applicable monitoring requirements. Potential impacts from New Melones Reservoir releases triggered by the proposed action will be reviewed in the annual transfer approval process. New Melones will be operated consistent with the current Interim Operation Plan (IOP), and no changes to the IOP are planned for the proposed transfer program.

Mitigation Responsibilities:

The Exchange Contractors will be responsible for mitigation of impacts caused by the manner in which water is made available for transfer, to the extent such impacts are identified through the analysis and transfer approval process described herein. The United States and the refuge entities (USFWS, DFG, Grasslands, pursuant to their water supply contracts with Reclamation) will be responsible for mitigation of impacts caused by the use and management of water on the wildlife areas. Reclamation expects that operations of New Melones in accordance with the IOP will make any additional mitigation unnecessary. However, the refuges will still be subject to applicable requirements to address water quality impacts from use of water on the refuges pursuant to their water supply contracts with Reclamation, and their obligations under the San Joaquin River Salinity Management Plan, State Water Resources Control Board discharge requirements, or other applicable requirements. Transfers to CVP agriculture and M&I contractors will not result in deliveries of water in excess of full contract amounts, and therefore significant adverse impacts are not anticipated.

Reclamation and the Exchange Contractors have adopted all feasible means to avoid or minimize adverse effects on the environment. The Exchange Contractors and its member agencies have adopted a Mitigation Monitoring and Reporting Plan (MMRP) for the preferred alternative as required under CEQA. Section 13 of the Final EIS/EIR is the complete MMRP.

ESA Consultations:

Reclamation has completed compliance pursuant to the federal Endangered Species Act.

Reclamation requested concurrence from the U.S. Fish and Wildlife Service (Service) that the proposed project may affect, but is not likely to adversely affect, threatened or endangered (T&E) species or their designated critical habitat, specifically the federal threatened species, giant garter snake (*Thamnophis gigas*). A copy of the Final

Environmental Impact Statement and Report (EIS/EIR) was provided to the attention of the Endangered Species Section 7 Branch and to the San Joaquin Valley Branch under separate covers, and discussion continued with the Service in January and February 2005. The Service concurred in a memorandum dated March 21, 2005 that the proposed action would not adversely affect any listed species or critical habitat. Reclamation determined that the proposed project will have no effect on species or critical habitat under the jurisdiction of NOAA Fisheries.

VI. Comments Received on the Final EIR/EIS

Following the publication of the Final EIS/EIR in December 2004, three comment letters were received from the following agencies: U.S. Environmental Protection Agency (EPA), Pajaro Valley Water Management Agency, and the Grassland Water District/Grassland Resource Conservation District. An identification of and summary of Reclamation's responses to those comments are provided below.

Pajaro Valley Water Management Agency (January 6, 2005)

PAJARO Comment: Based on the stated Purpose and Need in the Draft and Final EIS/EIR, PAJARO should be included in the list of potential program participants.

Response to PAJARO Comment: Water Users in Santa Cruz and Monterey counties were excluded from the project area because Reclamation did not perceive that agencies in these counties wanted to participate. If the project area had been changed for the Final EIS/EIR, it could have meant recirculation of the document, and the schedule for completion for known transfers would not have been met. Now that PAJARO's interest is known, a supplemental document could be prepared to address the other two counties such that PAJARO would be able to participate in subsequent transfers during 2006 through 2014.

Grassland Water District and Grassland Resource Conservation Districts (January 6, 2005)

Districts Comment: Although the Districts support a water transfer program, the Water Transfer EIS/EIR fails to comply with the requirements of CEQA and NEPA. The EIS/EIR inaccurately describes wetland management practices employed by the managers of San Joaquin Valley wetlands and thus, incorrectly assesses environmental impacts from delivering water to refuges. The EIS/EIR also incorrectly describes the environmental baseline and the No Action/No Project Alternative thereby skewing the impact analysis.

Response to Districts Comment: The underlying analysis used for incorporation into the EIS/EIR was developed in coordination with the refuges during 2004 (see Appendix B in the FEIS). This analysis used the best available information at the time, consistent with CEQA and NEPA requirements. If appropriate improvements to the refuge model become available, these results can be incorporated into subsequent analyses during the

annual water transfer approval process. Concerning the appropriate baseline for the CEQA/NEPA analysis, substantial additional information supporting the baseline is contained in Appendix E, Comments and Responses.

Environmental Protection Agency (January 18, 2005)

EPA Comment: We recognize and appreciate the additional information that has been included in the Final EIS describing related projects in the area. However, we have continuing concerns about the cumulative impacts of past and present water transfer programs and land retirement programs. We also continue to recommend that the proposed action be based on validated analyses of the past and present effects and trends of water transfers by the Exchange Contractors. We note the larger problem of managing salt balance in the basin remains, since withholding tailwater from the River does not remove salts from the watershed. Actions which the Exchange Contractors have taken (existing conditions baseline) and might expect to take (under future "no project" conditions) to manage their agricultural drainage water were not included in the Draft or Final EIS. The FEIS did not fully identify current studies and plans related to San Joaquin River restoration.

Response to EPA Comment: Most of the comments pertain to broad issues of water quality, use, conservation, and to river restoration in the complex watershed of the San Joaquin River. The detailed hydrologic analyses in the Final EIS/EIR capture current activities on the river and some future activities that can be quantified sufficiently to model. The other concerns expressed above are those that would be addressed in other regional analyses of the watershed performed by Reclamation and DWR under CALFED. We believe that the hydrologic analyses in the Final EIS/EIR adequately explain the effect of the proposed transfers which is the focus of the environmental document. Future activities of the Exchange Contractors to manage agricultural drainage water will be subject to NEPA/CEQA evaluation once these activities are defined sufficiently.