RECLAMATION

Managing Water in the West

Record of Decision

Central Valley Project Water Supply Contracts Under Public Law 101-514 (Section 206): Contract Between the U.S. Bureau of Reclamation and the El Dorado County Water Agency, Subcontract Between the El Dorado County Water Agency and the El Dorado Irrigation District, and Subcontract Between the El Dorado County Water Agency and the Georgetown Divide Public Utility District

U.S. Department of Interior
Bureau of Reclamation
Folsom, California

October 2019

Mission Statements

The Department of the Interior (DOI) conserves and manages the Nation's natural resources and cultural heritage for the benefit and enjoyment of the American people, provides scientific and other information about natural resources and natural hazards to address societal challenges and create opportunities for the American people, and honors the Nation's trust responsibilities or special commitments to American Indians, Alaska Natives, and affiliated island communities to help them prosper.

The mission of the Bureau of Reclamation (Reclamation) is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public.

Record of Decision

Central Valley Project Water Supply Contracts Under Public Law 101-514 (Section 206): Contract Between the U.S. Bureau of Reclamation and the El Dorado County Water Agency, Subcontract Between the El Dorado County Water Agency and the El Dorado Irrigation District, and Subcontract Between the El Dorado County Water Agency and the Georgetown Divide Public Utility District

Recommended:

Date: 10/4/19

Drew F. Lessard
Area Manager
Central California Area Office
Mid-Pacific Region

Concur:

Date: 10/15/2019

Anastasia T. Leigh
Regional Environmental Officer
Mid-Pacific Region

Approved:

Date: 10/22/19

Ernest A. Conant
Regional Director
Mid-Pacific Region

Summary of Action

The proposed action is for Reclamation to enter into a 40-year water service contract with El Dorado County Water Agency (EDCWA) for the delivery of up to 15,000 acre-feet per year (AFA) of Central Valley Project (CVP) Municipal and Industrial (M&I) water. This proposed action is intended to implement those parts of Public Law 101-514 (P.L. 101-514), Section 206, pertaining specifically to the EDCWA and the need for new water supply entitlements for El Dorado County. Under this new 40-year long term water service contract (Contract), up to 15,000 AFA of CVP M&I water would be made available to EDCWA for diversion from Folsom Reservoir, or from an exchange on the American River upstream from Folsom Reservoir. The contract would provide water that would serve existing and future M&I water needs in El Dorado County, establish and preserve entitlements to divert the water in accordance with State Water Resources Control Board (SWRCB) and Reclamation requirements, and provide new water supplies that would justify future construction, operation, and maintenance of new facilities to convey and treat the diverted water. EDCWA would make up to 15,000 AFA of CVP water available to two of its member districts ("subcontractors") along the western slopes of El Dorado County; El Dorado Irrigation District (EID) (up to 7,500 AFA) and Georgetown Divide Public Utility District (GDPUD) (up to 7,500 AFA), for use within specified areas within their respective service areas. In accordance with the terms of the Contract, any contracts between EDCWA and either EID or GDPUD will be developed consistent with this Decision and the Contract between Reclamation and EDCWA, and will contain a provision requiring EID and GDPUD to comply with all provisions, obligations, and responsibilities of EDCWA's Contract with Reclamation. Any such contracts must be provided to Reclamation for review and approval before they are executed.

Decision

Executing a new CVP water service contract with EDCWA achieves the purpose of P.L. 101-514 to help meet the long-term water needs of El Dorado County. Alternative 2A is considered the Preferred Alternative and the Environmentally Preferable Alternative because it provides the greatest benefits and fulfills the purpose of and need for the Proposed Action, while minimizing environmental impacts. By implementing Alternative 2A, potential environmental harm to California red-legged frog and Foothill yellow legged frog would be avoided and no additional mitigation measures are required. Reclamation's Decision is to implement Alternative 2A.

Alternatives Considered

Purpose and Need

The purpose of and need for the Proposed Action is to acquire a new water supply through the new CVP water service contract authorized by P.L.101-514 in order to meet planned growth within El Dorado County.

No Action Alternative

Under the No Action Alternative, the proposed CVP water service contract between Reclamation and EDCWA would not be executed. In the absence of a new CVP water supply for EDCWA, it is reasonable to expect that both EID and GDPUD would seek alternative supplies. In keeping with NEPA requirements, taking no action on the proposed contract would not restrict either purveyor from seeking alternative non-federal actions to meet their long-term needs. Accordingly, it is possible and likely that both EID and GDPUD would pursue and acquire a new water supply from a non-federal entity (without any action by Reclamation). Hydrologically, a new water right transfer or assignment would be possible, similar to the assumed conditions that would occur under the Water Transfer Alternative. Again, the total quantities requested would be similar to Alternatives 2A through 2C, the various Proposed Action scenarios (i.e., up to 15,000 AFA), the only difference being that it would not be this new CVP water supply.

Action Alternatives

The measures that moved forward for more detailed analysis in the Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) were those that responded to the NEPA purpose and need and California environmental quality act (CEQA) objectives, minimized negative effects, were potentially feasible, and represented a range of reasonable alternatives. After an initial screening, the measures remaining were combined into nine action alternatives that were selected to move forward for detailed analysis in the Draft EIS/EIR. Table 1 presents the alternatives carried forward for analysis in the Draft EIS/EIR. All the action alternatives meet the purpose of and need, but Preferred Alternative 2A is the preferred alternative and the environmentally preferable alternative. For most of the environmental consequences included in the Draft EIS/EIR impact analysis, there is little, if any, distinction between alternatives. The main difference in impacts is the effect on California red-legged frog and Foothill yellow-legged frog under Alternative 2C. The Final EIS identifies the types of mitigation

measures that could offset the potential hydrological effects on California red-legged frog and Foothill yellow-legged frog revealed by the simulation modeling, but Reclamation's Decision is to implement Alternative 2A, not Alternative 2C, and no such mitigation has been required.

Table 1 - Alternatives Analyzed in the EIS

Alternative Number	Alternative Name	Description
Alternative 1A	No Action	The No Action Alternative represents the state of the environment without the Proposed Action or any of the alternatives.
Alternative 2 2A (Preferred) 2B 2C	Water Diversion (Proposed Action)	EDCWA CVP M&I water services contract up to 15.000 AFA 7,500 AFA to EID and 7,500 AFA to GDPUD 15,000 AFA to EID 4,000 AFA to EID and 11,000 AFA to GDPUD
Alternative 3	Water Transfer	EID and GDPUD would seek alternative water supply likely within the American River Basin
Alternative 4 4A 4B 4C	Reduced Diversion	Diversions reduced by increasing increments, evenly distributed between EID and GDPUD 12,500 AFA 10,000 AFA 7,500 AFA

Proposed Action (Alternative 2: Scenarios A–C)

With execution of the proposed new water service contract, up to 15,000 AFA of CVP M&I water would be made available to EDCWA for diversion from Folsom Reservoir or from an exchange on the American River upstream from Folsom Reservoir. The contract

would provide water that would serve existing and future M&I water needs in El Dorado County, establish and preserve entitlements to divert the water in accordance with State Water Resources Control Board (SWRCB) and Reclamation requirements, and provide new water supplies that would justify future construction, operation, and maintenance of new facilities to convey and treat the diverted water.

Under the Proposed Action, EDCWA would make up to 15,000 AFA of CVP water available to two of its member districts ("subcontractors") along the western slopes of El Dorado County, EID and GDPUD, for use within specified areas within their respective service areas.

P.L. 101-514 does not specify how much of the up to 15,000 AFA would be allocated to each of the two EDCWA member districts that would receive this new water. For purposes of the EIS, several alternative diversion scenarios were developed to best address the range of potential hydrologic conditions and variances that would accrue with differing allocations. The diversion scenarios for the alternatives that are encompassed by the Proposed Action include:

- Preferred Alternative 2A – (7,500 AFA to EID and 7,500 AFA to GDPUD)
- Alternative 2B – (15,000 AF to EID)
- Alternative 2C – (4,000 AFA to EID and 11,000 AFA to GDPUD)

Each of the Proposed Action scenarios represent individual alternatives that offered variations of how the Proposed Action would or could be implemented with full consideration of the maximum coverage necessary for environmental review and disclosure purposes. As noted, these variations in allocation apportionment were necessary given the possibility that either EID or GDPUD could, depending on actual realized growth in the County, experience water needs in the future that could surpass the other. To maintain the maximum beneficial use of this new CVP M&I water allocation, wide flexibility in apportionment between the purveyors was considered not only prudent, but necessary.

Under each of Alternatives 2A through 2C, the Proposed Action scenario alternatives, varying quantities would be allocated to EID and GDPUD. The mechanisms of diversion, conveyance, treatment, and end-user delivery would be identical under each of the alternatives, the only variation being the quantities assigned to EID and GDPUD. EDCWA would hold the master contract with Reclamation under each of these alternatives.

Water Transfer Alternative (Alternative 3)

Under Alternative 3, the Water Transfer Alternative, both EID and GDPUD would seek an alternative water supply to the new CVP water contracts. It is assumed in the EIS that a water right transfer would be possible somewhere within the American River basin. Hydrologically, the quantities under any transfer would be the same as the Proposed Action (i.e., up to 15,000 AFA total); however, there may be long-term variances in delivery allocations depending on the specific nature of the water right transfer.

Reduced Diversion Alternative (Alternative 4: Scenarios A–C)

Under Alternatives 4A through 4C, the Reduced Diversion Alternatives, the total amount of the water that could be diverted under the proposed water service contract would be reduced from "up to 15,000 AFA" to variations of decreasing quantity. In other words, diversions would be reduced by increasing increments of 2,500 AFA. For purposes of analysis in the EIS, it was assumed that water diverted under these alternatives would be allocated evenly to EID and GDPUD. All other conditions associated with diversion, delivery, and treatment would be identical to Alternatives 2A through 2C, the various Proposed Action scenarios.

Environmentally Preferable Alternative

Section 1505.2(b) requires that, in cases where an EIS has been prepared, the Record of Decision (ROD) must identify all alternatives that were considered, specifying the alternative or alternatives considered to be environmentally preferable. The environmentally preferable alternative is the alternative that promotes the national environmental policy as expressed in NEPA's Section 101. Ordinarily, this means the alternative that causes the least damage to the biological and physical environment; it also means the alternative which best protects, preserves, and enhances historic, cultural, and natural resources (CEQ 40 Most Asked Questions number 6(a)). It is implicit in NEPA that the environmentally preferable alternative must be reasonable and feasible to implement. However, CEQ Guidelines do not require adoption of the environmentally preferable alternative for implementation.

To identify the environmentally preferable alternative, each Alternative was evaluated based on the environmental effects identified. The relative potential for each action alternative to benefit the resource areas was also identified. The action alternative with the fewest adverse environmental effects and greatest environmental benefits (where applicable) was identified for each resource category.

In identifying the environmentally preferable alternative, Reclamation considered effects on all resources. Based on the analysis in the Draft EIS/EIR and Final EIS, there is little, if any, distinction between alternatives. The total project increment was 15,000 AFA; by CVP/SWP system operational standards 15,000 AFA represents a small, almost indiscernible hydrologic change. Additionally, the CALSIM II model, while extremely precise in its ability to quantify simulated changes in hydrology, could not, in most instances, reflect notable changes in monthly system hydrology based on a 15,000 AFA diversion (even when the analysis hypothetically assumed the 15,000 AF would occur in three months).

Reclamation identified Preferred Alterative 2A as the environmentally preferable alternative over the No Action Alternative (Alternative 1A), Alternatives 2B & 2C, Alternative 3 and Alternative 4, because Alternative 2A provides the greatest benefits and fulfills the purpose of and need for the Proposed Action, while minimizing environmental impacts. Alternative 2C was not identified as the environmentally preferred alternative because flow modeling of Alternative 2C showed that it could further affect the California red-legged frog and Foothill yellow-legged frog. While all the action alternatives meet the purpose and need, Preferred Alternative 2A provides an equal distribution of the maximum amount of water between the two locations (EID and GDPUD) assessed allowing for the greatest benefits throughout El Dorado County, while minimizing environmental impacts. Alternative 2B does not split the water and would therefore potentially concentrate terrestrial effects into a smaller portion of El Dorado County. By implementing Alternative 2A (versus Alternatives 1A, 2B, 2C, 3 or 4), potential environmental harm to California red-legged frog and Foothill yellow legged frog (and potentially other sensitive biological resources) would be avoided and no additional mitigation measures are required.

Basis of Decision

Reclamation's Decision is to implement Preferred Alternative 2A (7,500 AFA to EID and 7,500 AFA to GDPUD), based on how the alternatives meet the purpose of and need for the Proposed Action, the magnitude of environmental effects, and the feasibility of applying mitigation to reduce those effects.

All of the action alternatives meet the purpose of and need for the Proposed Action. However, in light of the impact analysis presented in the Draft EIS/EIR and Final EIS, the outcomes of the Endangered Species Act consultations with both U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS), and the comments received on the Draft EIS/EIR, Reclamation identified Alternative 2A as the preferred alternative and environmentally preferable alternative. Because Alternative 2A

is the preferred alternative and environmentally preferable alternative and because Alterative 2A would provide the greatest benefits, fulfill the purpose of and need for the Proposed Action, and fully achieve the intent of P.L. 101-514, Section 206, with minimal environmental impacts, Reclamation has chosen Alternative 2A.

Environmental Issues Evaluated

Information and analysis presented in Chapter 4 (Affected Environment and Environmental Consequences) of the Draft EIS/EIR and Final EIS provide a description of resource features of the regional and local study area that may be affected by implementation of the Proposed Action and alternatives. The affected environment and environmental consequences descriptions are divided into two categories. The first category includes all resources that may be directly affected by future water diversions made under the Proposed Action or Alternatives. This category is referred to as Direct Impacts – Study Area. Resources that could be directly affected by the proposed water diversions are water supply, hydropower generation, flood control, water quality, fisheries, riparian biological resources, water-related recreation, and water-related cultural resources. The second category includes all resources that could be indirectly affected by future development and construction that could be served by water made available to EDCWA subcontractors (EID and GDPUD) by the Proposed Action or alternatives. This category is referred to as Indirect Impacts – Subcontractor Service Areas. Resources within the subcontractor service areas that could be affected indirectly by future development served by water made available by the Proposed Action or alternatives include land use, air quality, noise, geology, soils, mineral resources, paleontological resources, recreation, visual resources, cultural resources, and terrestrial and wildlife resources.

The primary environmental focus (at least in terms of project-level specificity) was on the hydrology of the CVP/SWP, including the Sacramento-San Joaquin River Delta and all associated system operations, constraints, and institutional agreements.

From an aquatic resource perspective, key issues addressed in the Draft EIS/EIR include the potential for the alternatives to affect listed aquatic species and their habitat of particular concern are those federally listed as endangered or threatened species of fish, which include:

- Sacramento River winter-run Chinook salmon Ecologically Significant Unit (ESU) (Endangered);
- Central Valley spring-run Chinook salmon ESU (Threatened);

- Central Valley spring-run Chinook salmon Designated Critical Habitat;
- Central Valley steelhead DPS (Threatened);
- California Central Valley steelhead Designated Critical Habitat;
- Delta smelt, (*Hypomesus transpacificus*) (Threatened); and
- Green sturgeon *(Acipenser medirostris)* southern DPS (Threatened).

Other fish species recognized as being of management concern included Central Valley Fall and Late Fall Run Chinook Salmon, striped bass, splittail, and American shad. For these species and their habitat conditions, reservoir releases, downstream river flows, water temperatures, the two part per thousand isohaline position in the Delta (X2), and, in the case of Chinook salmon, early life stage mortality estimates were used by the generated modeling output to evaluate potential impacts. The analysis suggests minimal effects on the biological resources under the alternatives. There was no clear delineation between the no action and other alternatives in the analysis as the variation of 15,000 AFA is within the normal operations of Folsom Lake Reservoir.

Based on the information provided, Reclamation determined the Proposed Action does not have the potential to affect Indian Trust Assets. The nearest Indian Trust Assets to the proposed project site are the Auburn Rancheria, which is approximately 11 miles northwest of the project location, and the Shingle Springs Rancheria, which is approximately 12 miles east of the project location.

Direct Impacts – Study Area

As a new CVP water service contracting action, the primary focus of the environmental and socioeconomic analyses for the Draft EIS/EIR and this Final EIS is directed towards potential changes in CVP/SWP coordinated hydrology. This included a detailed assessment of the reservoirs, rivers, Sacramento-San Joaquin River Delta, and associated operations and constraints that make up the CVP/SWP. No new facilities are proposed; therefore, none were contemplated or evaluated under this EIS. Any new facilities selected and ultimately required to implement the P.L.101-514 water contract would be subject to future and separate environmental review processes.

For the Draft EIS/EIR, project-level direct impact determinations pertained only to the potential changes in CVP/SWP and system-related hydrology. This was accomplished using the planning and operational mass balance, reservoir routing model CALSIM II. Along with Reclamation's other supporting environmental models (e.g., Reservoir Water Temperature Models, River Water Temperature Models, and Early Life-Stage Salmon Mortality Models) and their Long-Term Gen hydropower generation and capacity model, extensive modeling output was generated based on hindcast 72-year historic hydrology.

The CALSIM II mass-balance hydrologic reservoir routing model was used to evaluate the CVP/SWP reservoirs and waterways. The CALSIM II Model Verification Process approach, methodology and results are incorporated into this Final EIS, as Appendix B.

Analysis in the Final EIS addresses the potential impact of the Proposed Action by comparing the effects of that action to the effects of the No Action Alternative. In relation to the evaluation of "diversion-related" direct impacts, however, that comparison is moot in most instances because annual diversion of up to 15,000 acre-feet from the American River or Folsom Reservoir would occur under both the No Action Alternative and the Proposed Action. Therefore, no distinction can be made between either alternative relative to potential impacts on various diversion-related resources.

The resources evaluated for the direct impacts of water diversion included water supply, hydropower generation, flood control, water quality, fisheries, riparian biological resources, water-related recreation, and water-related cultural resources. The direct impact on these resources will be minimal. In addition, there was no clear delineation between the no action and other alternatives in the analysis as the variation of up to 15,000 AFA is within the normal operations of Folsom Lake Reservoir.

Indirect Impacts – Subcontractor Service Areas

Program-level analyses in the Final EIS were conducted for potential impacts on resources not directly affected by proposed diversions. The potential impact of future development within the Subcontractor Service Areas, for example, are addressed programmatically. This new development includes various facilities, activities, land uses within the Subcontractor Service Areas that could be provided water under P.L. 101-514 that are typically part of development activities within urban and rural areas. The impact of such activities was adequately analyzed in the adopted El Dorado County General Plan Update and EIR, upon which the Draft EIS/EIR and the Final EIS rely. A detailed analysis of those activities, land uses, and resources is not repeated in the Final EIS.

The impacts for resources within the subcontractor service areas that could be affected indirectly by future development served by water made available by the action alternatives and discussed in the Final EIS include: land use, transportation and circulation, air quality, geological resources, recreation, visual resources, cultural resources, terrestrial and wildlife resources. Overall, the analysis indicated limited minimal indirect effects.

Mitigation

Implementation of Alternative 2A would not result in any potentially significant impacts, and Reclamation is not requiring any specific mitigation measures, monitoring, reporting or environmental commitments.

Section 7 of the Federal Endangered Species Act (ESA)

In a letter dated January 5, 2010, Reclamation initiated Section 7 consultation with USFWS and requested a letter of concurrence with Reclamation's determination that the Proposed Action is not likely to adversely affect specific federal ESA species listed by USFWS in the area of the Proposed Action. USFWS responded to Reclamation's letter in a Memorandum dated June 9, 2010 concurring with the findings in Reclamation's June 2009 Biological Assessment (BA).

In a letter dated May 17, 2012, Reclamation initiated Section 7 consultation with NMFS and requested a letter of concurrence with Reclamation's determination that the Proposed Action may affect, but is not likely to adversely affect specific fishery species federally listed by NMFS under ESA. NMFS responded to Reclamation's request in a letter dated June 2, 2014 concurring with the findings in Reclamation's amended BA received by NMFS on May 17, 2012.

Consultation on delta smelt attributable to the Proposed Action relies on the system wide consultation with the USFWS on the Long-Term Coordinated Operation of the CVP and State Water Project (SWP). The 15,000 AFA of water under the selected alternative was included in the USFWS 2008 BiOp for long-term coordinated operation of the CVP and SWP. In 2016, Reclamation reinitiated consultation on that BiOp, but included the delivery of water under the selected alternative in the proposed action in that reinitiated consultation. Reclamation submitted the biological assessment (BA) to the USFWS on January 31, 2019. A Final BiOp is expected to be provided to Reclamation in July 2019. Once Reclamation receives the Final USFWS BiOp, the ESA requirements will be considered complete.

Section 106 Compliance

Reclamation determined the proposed action constitutes a Federal undertaking, as defined in 36 CFR § 800.16(y), that has no potential to cause effects to historic properties, should such properties be present, pursuant to 36 CFR § 800.3(a)(1). As such, Reclamation has no further obligations under Section 106 of the National Historic Preservation Act (Title

54 U.S.C. § 306108). The proposed action, as described in the Final EIS, results in no significant impacts to properties listed or eligible for listing in the National Register of Historic Places. Changes in water levels caused by diversion operations would be within the range of normal operations.

Project-level analyses of potential future facilities are not included in the Final EIS. Future proposals for such projects would require additional review for effects on Cultural Resources.

Comments Received on the Final EIS

A Notice of Availability for the Final EIS was published in the Federal Register on May 10, 2019. The EIS was posted on Reclamation's website, and copies were distributed to those who requested a copy. In 2009, only nine comments were received on the DEIS including two federal agencies, four state agencies, and three other organizations. The comments and responses are included in the Final EIS (Appendix A). Reclamation did not receive any comments on the Final EIS.