



— BUREAU OF —
RECLAMATION

Delivery and Use of Unreleased San Joaquin River Restoration Flows for Water Contract Years 2023-2033

Finding of No Significant Impact

CGB-FONSI-2023-009

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Bureau of Reclamation
California Great-Basin
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Mission Statements

The Department of the Interior 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 is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public.

Background

In 1988, a coalition of environmental groups, led by the Natural Resources Defense Council (NRDC), filed a lawsuit challenging the renewal of long-term water service contracts between the United States and Central Valley Project (CVP) Friant Division. After more than 18 years of litigation, *NRDC, et al., v. Kirk Rodgers, et al.*, a settlement was reached (Settlement). On September 31, 2006, the Settling Parties, including NRDC, Friant Water Users Authority (now represented by the Friant Water Authority), and the U.S. Departments of the Interior and Commerce, agreed on the terms and conditions of the Settlement, which was subsequently approved by the U.S. Eastern District Court of California on October 23, 2006. The Settlement establishes two primary goals:

- Restoration Goal -To restore and maintain fish populations in "good condition" in the main stem of the San Joaquin River below Friant Dam to the confluence of the Merced River, including naturally reproducing and self-sustaining populations of salmon and other fish.
- Water Management Goal-To reduce or avoid adverse water supply impacts on all of the Friant Contractors that may result from the Interim Flows and Restoration Flows provided for in the Settlement.

The San Joaquin River Restoration Program (SJRRP) is being implemented in accordance with the Settlement by the U.S. Bureau of Reclamation (Reclamation), U.S. Fish and Wildlife Service (FWS), National Marine Fisheries Service (NMFS), State of California Department of Water Resources and State of California Department of Fish and Wildlife. The SJRRP Programmatic Environmental Impact Statement/Report (PEIS/R) was completed in 2012. The PEIS/R analyzed, at a programmatic level, the management of Unreleased Restoration Flows (URF). In 2016, Reclamation completed an environmental assessment (EA) and finding of no significant impact for the Delivery and Use of Unreleased San Joaquin River Restoration Flows for Water Contract Years 2016-2025. The 2016 EA analyzed and disclosed the potential project-specific effects on the human environment of implementing the URF Program, including actions to bank, store, exchange, or sell unreleasable Restoration Flows from Friant Dam with a range of potential parties, including CVP Friant Division long-term contractors and others within the Millerton Place of Use. The URF Program is further described in the 2016 EA.

The SJRRP's need for a URF Program is temporary; as channel capacity is improved over time, annual generation of URF will be reduced. Since its inception, the SJRRP has been in the planning phase of addressing the downstream constraints that limit the release of Restoration Flows. These efforts include projects to increase channel conveyance, such as the Mendota Pool Bypass and Reach 2B Improvements Project (Reach 2B Project). After completion of channel capacity improvements, like the Reach 2B Project, it is planned that URF will only be generated

when there are brief, temporary, or presently unexpected interruptions to Restoration Flows, such as in-stream construction projects, sediment removal projects, levee maintenance, and other events that would require river flows to be curtailed for the purpose of safety. However, there are many unknown variables in projecting how channel capacity will evolve over time. Therefore, Reclamation is proposing to continue implementing the URF Program, as described in the 2016 EA, as needed to manage URF, through 2033.

Findings

The 2016 EA was prepared to analyze and disclose the potential environmental impacts associated with the action and no action alternatives. The 2016 EA was prepared in accordance with the National Environmental Policy Act of 1969, as amended (NEPA), Council on Environmental Quality regulations (40 CFR 1500-1508), and Department of the Interior Regulations (43 CFR Part 46). No changes have occurred that would result in additional or more substantial impacts from what was analyzed and disclosed in the 2016 EA. In accordance with, NEPA, Reclamation has found that the proposed action of continuing implementation of the URF Program through 2033 is not a major Federal action that would significantly affect the human environment. Therefore, an environmental impact statement is not required.

Following are the reasons why the impacts of the proposed action are not significant, with respect to the affected environment and degree of effects of the action (40 CFR 1501.3(b)).

- The proposed action will not significantly affect public health or safety (40 CFR 1501.3(b)(2)(iii)).
- While there are known Indian Trust Assets (ITAs) within the affected environment, the proposed action will have no impact on ITAs (512 DM 2, Policy Memorandum July 2, 1993).
- The proposed action will not limit access to, and ceremonial use of, Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (EO 13007 – May 24, 1996, and 512 DM 3 – June 5, 1998).
- The proposed action will not violate federal, state, tribal, or local law protecting the environment (40 CFR 1501.3(b)(2)(iv)).
- The proposed action will not involve any construction and will use existing infrastructure for the delivery of URF and therefore will not result in a substantial increase in long-term regional or local emissions. Furthermore, the quantity of water delivered for the proposed action will be approximately the same as the quantity of

water that will be delivered under the no action alternative. In addition, no additional pumping is expected to occur. Therefore, emissions from pumping are not anticipated to be different between the proposed action and the no action alternative. Emissions from the proposed action will not be anticipated to violate air quality standards, contribute substantially to an existing or projected air quality violation, or conflict with or obstruct implementation of Air Resources Board and San Joaquin Valley Air Pollution Control District air planning efforts.

- The proposed action is a 10-year action and is similar to the no action alternative in terms of the quantity of water that will be delivered. Therefore, the proposed action will not result in a difference in long-term regional or local emissions. Also, as compared with the no action alternative, the proposed action will not add to the global inventory of gases that would contribute to global climate change and will not result in increases in greenhouse gas emissions. Additionally, the proposed action will not be affected by long-term effects of climate change. The proposed action is adaptive to climate change by design, as the availability of Restoration Flows is based on hydrology and the most current runoff probabilities, which are responsive to a changing climate.
- As no land use changes or additional disturbance will occur as a result of the proposed action, no habitat changes will occur that could potentially affect species, including those covered under the Endangered Species Act (ESA) and Migratory Bird Treaty Act (MBTA). Because there will be no land disturbance or land use changes associated with the proposed action, and any potential water sales will occur within the bounds of existing FWS and NMFS biological opinions associated with the coordinated long-term operation of the CVP and State Water Project, there will be no effect to vegetation and wildlife including ESA listed species, critical habitats, or species protected by the MBTA. The proposed action long-term impacts to water supply or water quality will be the same as the no action alternative; therefore, it can be assumed that anadromous and Delta fish species, and their designated critical habitat, will not be affected by the proposed action. While there are sensitive biological communities as identified by the California Natural Diversity Database and threatened or endangered species identified under ESA potentially occurring in the project area, it is anticipated that there will be no impacts to these species for the proposed action as compared with the no action alternative.
- The proposed action constitutes a Federal undertaking as defined in 36 CFR § 800.16(y). The proposed action will not include any construction activities and will use existing infrastructure for the delivery of URF. As such, Reclamation determined that this undertaking has no potential to cause effects on historic properties, pursuant to 36 Code of Federal Regulations (CFR) Part 800.3(a)(1) and will have no impact on cultural resources.
- As compared to the no action alternative, the proposed action will not have a disproportionate impact on minority or low-income populations (EO 12898 – February 11, 1994). The delivery and sale of water in the no action alternative and

the proposed action would be to the same potential parties, therefore there will be no disproportionate impact to minority or low-income populations from implementation of the proposed action.

- The proposed action will not result in any land conversion, and no land fallowing or habitat restoration will be deferred as the actions will deliver the same volume of water as the no action alternative. As described above, no new lands will be brought into agricultural production as a result of the proposed action. Existing land use is not expected to change as a result of the implementation of the proposed action.
- The proposed action will result in the same volume of water delivered under existing water rights and permits as the no action alternative. Under the proposed action, the quantity of sales will be limited by URF availability and by the total CVP Class 1 and Class 2 contract amount for the Friant Division. These actions are already covered under existing licenses and permits and will therefore not have an impact to water resources.
- The proposed action, when added to other past, present, and reasonably foreseeable actions, will not contribute to significant cumulative increases or decreases in environmental conditions in any resource category.