April 4, 2005

David Robinson
U.S. Bureau of Reclamation
Central California Area Office
7794 Folsom Dam Road
Folsom, CA 95630-1799

Subject:EPA Comments on the Draft Environmental Impact Statement (DEIS) for the Renewal of Long-Term Municipal and Industrial Service Contracts for the American River Division, Central Valley Project (CVP) (CEQ# 050012)

Dear Mr. Robinson:

The U.S. Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act. Our detailed comments are enclosed.

Based on our review of the DEIS, we have rated the document Environmental Concerns-Insufficient Information (EC-2) (see enclosed "Summary of Rating Definitions"). As we have noted in our recent comments on the Bureau of Reclamation's (Reclamation) NEPA documents for long-term contract renewals[1], EPA is concerned that the environmental impacts of the future No Action and Action Alternatives are underestimated. The DEIS does not address existing water quality degradation, or document impacts to fisheries and aquatic habitat. The DEIS also states that resource conditions would be the same under the future No Action Alternative and Alternatives 1 and 2. However, no rationale is provided in the document for this approach. We recommend that the Final EIS include a more robust description of the existing conditions and fully evaluate the potential environmental impacts of the contract terms specific to the future No Action Alternative and Alternatives 1 and 2.

Renewal of the contracts would continue to obligate contract water quantities above the amounts that are currently delivered. Therefore, the contracts may result in increased diversions

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[1]EPA comments on the DEIS Renewal of Long-Term Contracts for the San Luis Unit Contractors, January 25, 2005; Draft Environmental Assessment for Renewal of Long-Term Contracts for Delta-Mendota Canal, December 15, 2004; DEIS Renewal of Long-Term Contracts for Sacramento River Settlement Contractors, November 15, 2004.

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of water from the American River, if full contract quantities are delivered. The DEIS does not provide a comparative analysis of the environmental effects caused by the existing level of water deliveries, action alternative deliveries, or delivery of full contract water quantities. The FEIS should disclose the amount of water delivered now and with the action alternatives and evaluate the potential environmental effects of different water delivery levels.

The DEIS relies heavily on previous analyses of American River projects including the Placer County Water Agency American River Pump Station, Freeport Regional Water Project, and American River Water Supply Contracts Under Public Law 101-514. In EPA's previous reviews of these NEPA documents, we expressed concerns regarding the cumulative impacts and environmental tradeoffs of increased water diversions from the American River on water quality, fisheries, aquatic ecosystems, and overall CVP operations. The proposed long-term contract renewals for the American River Division contractors, in conjunction with these previous projects, may increase water diversions from the American and Sacramento Rivers and further exacerbate efforts to improve water quality, anadromous fish habitat, and aquatic ecosystems.

Our comments on this particular project are consistent with our observations on other recent Reclamation contract renewal NEPA documents. We appreciate the opportunity to review this DEIS and look forward to working with the Bureau of Reclamation as you proceed with the development of the Final EIS (FEIS) for the American River Division. Please send two copies of the FEIS to the address above (mail code: CED-2). If you have any questions, please contact Lisa Hanf at 415-972-3854, Manager of the Environmental Review Office, or Laura Fujii, the lead reviewer for this project. Laura can be reached at 415-972-3852 or fujii.laura@epa.gov.

Sincerely,

Enrique Manzanilla, Director
Communities and Ecosystems Division

Enclosures:
EPA's Detailed Comments
Summary of Rating Definitions

cc: Kirk Rodgers, Mid-Pacific Region, Bureau of Reclamation
Frank Michny, Mid-Pacific Region, Bureau of Reclamation
Michael Aceituno, NOAA-Fisheries
Steve Thompson, U.S. Fish and Wildlife Service
Arthur Baggett, State Water Resources Control Board
Mike Chrisman, California Secretary for Resources
Patrick Wright, California Bay Delta Authority
Lester Snow, California Department of Water Resources

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EPA DETAILED COMMENTS FOR DEIS RENEWAL OF LONG-TERM CONTRACTS FOR THE AMERICAN RIVER DIVISION, CENTRAL VALLEY PROJECT, CA, APRIL 4, 2005

Existing Conditions and Future No Action Conditions

1. EPA is concerned that the environmental impacts associated with existing conditions have not been identified, and therefore, the future impacts are underestimated. The American River already experiences sub-optimal flows and water temperatures for anadromous fish in some years (pg. 4-28). The lower River is also listed as an impaired water body pursuant to Section 303(d) of the Clean Water Act for organochlorine pesticides, mercury, and toxicity (pg. 4-5). Operation of the American River Division to meet San Francisco Bay-Delta water quality standards has sometimes harmed salmonids in the lower American River by creating flow fluctuations which dewater redds and strand fry (Periodic Review of the Water Quality Control Plan for the San Francisco Bay-Delta, 2005).

Recommendations:
The Final Environmental Impact Statement (FEIS) should describe the existing conditions, including any environmental degradation where it exists. The FEIS should also disclose the differences between the future No Action Alternative and current existing conditions, particularly for water quality, aquatic ecosystems, and fisheries.

We recommend including a short description of the historical changes to the American River Basin resources and the environmental effects of American River Division diversions from the American River. For example, describe the historical effects on water quality and fisheries. The information should provide the decision-maker and public with the environmental context for these long-term contract renewals.

2. The future No Action Alternative, which serves as the project baseline, is based on the Central Valley Project Improvement Act Programmatic Environmental Impact Statement (CVPIA PEIS) Preferred Alternative and other more recent actions (pg. 2-6). This is a reasonable assumption since operations of the CVP, including delivery of American River water to the American River Division Contractors, are guided by the adopted CVPIA PEIS Preferred Alternative. While the CVPIA PEIS Preferred Alternative would improve environmental conditions for threatened and endangered fisheries, the PEIS states that this Preferred Alternative would continue to have adverse impacts on fisheries (Table II-13, CVPIA Final PEIS, pg. II-67). As noted in Comment #1, current CVP operations under the No Jeopardy Biological Opinion for the Operating Criteria and Plan (OCAP) can have adverse effects on salmonids.

Recommendation:
The FEIS should describe the CVPIA PEIS Preferred Alternative, the status of its implementation, and associated environmental impacts. The FEIS should incorporate the environmental impacts of the CVPIA PEIS Preferred Alternative into the future No Action Alternative for the American River Division.

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3. Ongoing projects in the American River Basin to improve riparian habitat, anadromous fish survival, instream flows, and water quality are not described in the Draft EIS (DEIS). Nor does the DEIS evaluate impacts to these restoration actions which could be caused by the renewal of water supply contracts. EPA is concerned about the potential effects on instream flows, water temperatures, and the ability to manage water for instream beneficial uses and water quality.

Recommendations:
The FEIS should describe ongoing restoration projects within the American River Basin which could be affected by the renewal of water supply contracts. Describe the proposed environmental improvements, the anticipated year of implementation, environmental benefits, and responsible parties. For example, describe the status of the CVPIA Anadromous Fish Restoration Program (AFRP) for the American River.

An evaluation of the direct, indirect, and cumulative effects of contract renewals on these restoration efforts should be provided in the FEIS. Also, describe how CVPIA fishery restoration requirements (e.g., AFRP, Section 3404(c)(2)) will be met under the future No Action Alternative and Alternatives 1 and 2.

Evaluation of Environmental Consequences

1. The DEIS does not distinguish the environmental impacts of the action alternatives from the "no action," and states that resource conditions under Alternatives 1 and 2 would be identical to conditions under the future No Action Alternative. Therefore, the DEIS concludes there are no environmental impacts caused by the Action Alternatives (e.g., pgs. 4-13, 4-16). However, the DEIS does not provide data to support this conclusion. The Action Alternatives are characterized by different contract terms--tiered water pricing, the definition of Municipal and Industrial (M&I) users, water measurement locations, and water conservation. The environmental effects of these different contract terms are not provided in the DEIS. We believe these contract terms could result in impacts different from the future No Action Alternative and existing conditions.

Recommendations:
We urge Reclamation to evaluate the potential environmental impacts of the action alternatives in the FEIS. The FEIS should evaluate the potential effects of different contract provisions on water supply management, instream flows, water quality, anadromous fish, and aquatic and riparian habitat. A comparison of the environmental effects of these contract terms as compared to existing conditions and the future No Action Alternative baseline should be clearly presented in the FEIS. This evaluation should also address whether adverse environmental impacts, if any, can be avoided or minimized.

2. Renewal of the contracts would continue to obligate contract water quantities above the

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amounts that are currently delivered (pgs. 2-3, 2-7, 4-13). Therefore, the contracts may result in increased diversions of water from the American River potentially affecting water quality, American River flows, anadromous fisheries, and aquatic ecosystems. The DEIS does not disclose the actual amount of water delivered now or proposed with the action alternatives. Also, there is no comparative analysis of the environmental effects caused by the existing level of water supply deliveries, action alternative deliveries, or a full contract delivery level. We are concerned with direct, indirect, and cumulative effects on the American River, CVP management flexibility, and increased water diversions from the American River associated with the delivery of full contract water quantities.

Recommendation:
The FEIS should document the amount of water delivered now and with the action alternatives; and describe the direct, indirect, and cumulative environmental consequences of the different delivery levels. Assumptions about water deliveries in the future should be explicit.

3. This DEIS relies substantially on the analyses in the CVPIA PEIS. The CVPIA PEIS projected impacts for actions to year 2025 while the study period of this DEIS extends to the year 2044 (pg. 4-2). The impact analysis in the DEIS does not cover the period between 2025 and 2044. We note that American River Division contracts will expire at various dates prior to 2029 (pg. 1-1), whereby there could be renewed contracts to the year 2069.

Recommendation:
We recommend that the FEIS provide a qualitative evaluation of the potential cumulative environmental impacts of the alternatives between 2025 and 2044. EPA is concerned about the long-term and cumulative effects to water quality, water quantity, water supply management flexibility, and fish and wildlife habitat.

4. The American River Division plays a key role in the operation of the CVP to meet Endangered Species Act (ESA) requirements, water quality regulations, and water supply demands within and south of the San Francisco Bay-Delta (pgs. 4-4 and 4-6). As an integral part of the CVP system, the American River Division operations could be affected by other actions within the CVP. For example, the Trinity County Board of Supervisors have stated that CVP long-term contract supplies are subject to Trinity River fishery flow requirements and Trinity County area-of-origin water rights.[2] Trinity River fishery flow requirements and Trinity County area-of-origin water rights could substantially reduce the quantity of water available from the Trinity River Division for water supply deliveries to the Sacramento River, San Francisco Bay-Delta, and southern California. Less Sacramento River water would be available for water quality requirements, therefore increasing the reliance on the American River Division. As a result, there may be less American River Division water available for American River beneficial

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[2]Letter from Trinity County Board of Supervisors to Kirk Rodgers, Regional Director, Bureau of Reclamation, dated April 8, 2004 re: Comments on Draft CVP Long-Term Water Service Contract Terms and Conditions.

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uses such as water quality, fisheries, and fish and wildlife habitat.

Recommendation:
The FEIS should describe how major water supply actions in other parts of the CVP, such as those in the Trinity River Division, may affect American River Division operations and contracts. Also, describe when and how the American River Division is used to address San Francisco Bay-Delta water quality requirements or Sacramento River fishery temperature requirements, and how this could change in the future.

5. The DEIS states that American River Division water users currently rely upon water diverted from the American and Sacramento Rivers and groundwater (pg. 4-2). However, the DEIS does not identify future water sources if there is a need for additional supplies. The American River Water Forum (pgs. 3-17 to 3-20) and Sacramento River Water Reliability Study (authorized by P.L. 106-554, December 2002; Interim Report, June 2003) discuss the use of additional Sacramento River water for future supplies for American River contractors. The Sacramento River is the main tributary for the San Francisco Bay-Delta and is a key factor in San Francisco Bay-Delta water quality and environmental health. EPA is concerned that additional water supply diversions may impact water quality, fisheries, and aquatic ecosystems in the Sacramento River.

Recommendation:
The FEIS should address whether the American River Division can provide current and future water supply contract quantities (water supply reliability). This evaluation should include related actions to protect or improve the reliability of water supplies in the American River Division as existing water supplies are fully utilized. We also recommend evaluating the potential impacts of contract renewals and future water supply demands on water supply reliability and American River beneficial uses. For instance, describe the potential impacts of increased water diversions on American River flows and the ability to operate Folsom Reservoir to meet San Francisco Bay-Delta water quality requirements.

Water Conservation

Water conservation assumptions in the DEIS include actions for municipal and on-farm uses based on the Department of Water Resources Bulletin 160-93; and conservation plans completed under the 1982 Reclamation Reform Act and consistent with the CVPIA. The CVPIA addresses cost-effective Best Management Practices that are economical and appropriate, including measurement devices, pricing structures, demand management, public information, and financial incentives (pg. 2-12). Water Resources Bulletin 160-93 is based upon data and analyses which have been superseded by Bulletin 160-98 and the forthcoming Bulletin 160-05. The DEIS does not address whether the contractors have adopted or implemented these conservation measures.

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Alternative 1 assumes certain water conservation programs pursuant to State of California requirements will be implemented, and that these actions will be accepted by Reclamation to meet their water conservation requirements (pg. 2-14). The DEIS does not provide information on specific conservation plans or measures which would meet the State of California or Reclamation water conservation requirements.

Recommendation:

The FEIS should describe specific conservation measures being taken or proposed by the American River Division Contractors. It should describe potential effects of the different water conservation assumptions of the future No Action Alternative and Alternative 1. EPA supports aggressive conservation measures to increase water supply reliability and flexibility.

The FEIS should reference current water conservation measures, such as those supported by the California Urban Water Conservation Council (CUWCC) and the American River Water Forum (Water Forum). The CUWCC was created to increase efficient water use through development and implementation of 14 comprehensive conservation Best Management Practices (BMPs). Nearly 100 urban water agencies and environmental groups have pledged to participate in the CUWCC. The Water Forum is a diverse group of water agencies, business groups, agricultural interests, environmentalists, citizen groups, and local governments coordinating and evaluating future water needs and supplies in the Sacramento Area, including the American River Basin.

NEPA and CEQ guidance encourage the evaluation of an alternative even if it is outside the scope of Reclamation's statutory authority (see CEQ's 40 Most Asked Questions, 2A). Reclamation should evaluate an alternative that incorporates water conservation and allows for adaptive management to address changing conditions such as population, land use, water quality and climate conditions. A conservation alternative could include specific conservation goals, identify implementation barriers, adjustments of contract terms (i.e., "reopener clauses"), project repayment, environmental monitoring, water transfers, pricing, operational flexibility, conjunctive use, and reuse. This alternative should also provide opportunities to enhance environmental water supplies, including allocating conserved water to other needs such as environmental restoration.

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