

1.0 INTRODUCTION

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1.1. BACKGROUND

1.1.1. Public Law 101-514

In 1990, Congress passed Public Law 101-514 (P.L. 101-514),⁶ which directed the U.S. Bureau of Reclamation (Reclamation) to enter into a long-term Central Valley Project (CVP) water service contract with the El Dorado County Water Agency (EDCWA). Under this contract, up to 15,000 acre-feet annually (AFA) of CVP water would be provided to EDCWA. The contract would provide water to serve municipal and industrial (M&I) water needs in El Dorado County and establish and preserve rights to divert the water in accordance with State Water Resources Control Board (SWRCB) and Reclamation requirements. EDCWA would make this water available for use by two of its member districts in the western portion of El Dorado County, the El Dorado Irrigation District (EID) and the Georgetown Divide Public Utility District (GDPUD). Various options for diversion and delivery of this new water supply are fully described in Chapter 3.0 (Alternatives Including the Proposed Action and Project Description).

Section 206 (b) of P.L. 101-514 authorizes a new CVP contract for EDCWA as well as the Sacramento County Water Agency (SCWA), and the San Juan Suburban Water District. Section 206 (b)(1)(B) specifically addresses EDCWA's allocation under the law. Section 206(b)(1) in its entirety reads as follows:

The Secretary of the Interior is authorized and directed to enter into the following contracts: (A) a municipal and industrial water supply contract with the Sacramento County Water Agency, not to exceed 22,000 acre-feet annually, to meet the immediate needs of Sacramento County and a municipal and industrial water supply contract with the San Juan Suburban Water District, not to exceed 13,000 acre-feet annually, for diversion from Folsom Lake, with annual quantities delivered under these contracts to be determined by the Secretary based upon the quantity of water actually needed within the Sacramento County Water Agency service area and San Juan Suburban Water District after considering reasonable efforts to: (i) promote full utilization of existing water entitlements within Sacramento County, (ii) implement water conservation and metering programs within the areas served by the contract, and (iii) implement programs to maximize to the extent feasible conjunctive use of surface water and groundwater; and (B) a municipal and industrial water supply contract with the El Dorado County Water Agency, not to exceed 15,000 acre-feet annually, for diversion from Folsom Lake or for exchange upstream on the American River or its tributaries, considering reasonable efforts to implement water conservation programs within areas to be served by the contracts. The contracts required by this subsection are intended as the first phase of a contracting program to meet the long-term water supply needs of Sacramento and El Dorado Counties. The Secretary shall promptly initiate the necessary analysis for the long-term water supply contracts. The Secretary may include in these contracts terms and conditions to ensure that

6 P.L. 101-514 was a part of the Energy and Water Development Appropriations Act of 1991, H.R. 5019, Conference Report H101-235, filed October 15, 1990, passed October 20, 1990, and signed into law, November 4, 1990.

the contracts may be amended in any respect required to meet the Secretary's obligations under applicable State law and the Federal environmental laws. [Emphasis Added]

At the time that P.L.101-514 was passed, it was acknowledged that El Dorado County (and Sacramento County) would continue to grow and that new water supplies would be required well into the future. These assumptions have been borne out over the past two decades with increasing population growth requiring the continual of additional water supplies. The most current assessment was prepared by the El Dorado County Water Agency as part of its 2007 Water Resources Development and Management Plan. For more information on the background behind P.L.101-514, readers are encouraged to review the House Report (101-96), Senate Report (S101-83), and the Conference Report (H101-235) in support of Bill H.R.5019 (Public Law 101-514).

Section 206(b)(2) of P.L. 101-514 recognizes the need for EDCWA and Reclamation to prepare jointly environmental documentation to fulfill environmental review requirements of the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA). This EIS/EIR has been prepared in compliance with the requirements of NEPA and CEQA and in accordance with the mandate of P.L. 101-514.

It is important to note that, although a moratorium on new CVP water supply contracts was in place at the time of the P.L.101-514 authorization, the proposed contracts (including the EDCWA contract) are able to proceed because Section 3404(b) of P.L. 102-575, Title XXXIV (Central Valley Project Improvement Act) excludes water supply contracts provided by P.L. 101-514 from the moratorium.

An equally important point is that the P.L. 101-514 contract for EDCWA is recognized "...as the first phase of a contracting program to meet the long-term water supply needs of ...El Dorado [County]." EDCWA, along with its member units, have continued to pursue various water supply acquisition and demand reduction initiatives concurrently with this new CVP water service contract. Further details regarding EDCWA's water needs, demand projections, and ongoing water supply development activities are provided in Chapter 2.0 (Purpose and Need).

1.2. EVENTS LEADING TO PUBLICATION OF THIS DRAFT EIS/EIR

Since the passing of P.L.101-514 in 1990, numerous events have unfolded that have affected or been a part of this new contracting process. A Notice of Preparation (NOP) for this EIS/EIR was prepared and circulated in April 1993 (1993 NOP) and a Notice of Intent (NOI) was prepared for the project and published in the Federal Register (Vol. 58, No. 90, May 12, 1993). After public circulation of the 1993 NOP and NOI, a series of informal scoping sessions with various stakeholder groups and agencies was conducted by EDCWA and its environmental consultant as part of the early project scoping process. The 1993 NOP and NOI, results of scoping sessions, and a report compiling the results of the NOP/NOI process and scoping sessions is included in Appendix A in this Draft EIS/EIR.

Following completion of the project scoping process in early 1994, activity related to preparation of this EIS/EIR slowed. In part, this was due to the renewed focus on the acquisition of new water rights for EID under the proposed "El Dorado Project". The El Dorado Project, as it was referred to in prior environmental documentation, was EID's proposed acquisition of Federal Energy Regulatory

Commission (FERC) Project No. 184 from Pacific Gas and Electric Company (PG&E), and the acquisition by EID of a water right permit for 17,000 AFA of water diverted through Project 184 facilities for consumptive use purposes. Additionally, at this time, the proponents of the P.L. 101-514 contract decided to wait to complete environmental review for EDCWA's action until the Sacramento County P.L. 101-514 EIS/EIR and contract were complete.⁷ Several processes, including a service area analysis, were being required by the U.S. Fish & Wildlife Service (USFWS) as part of the Section 7 consultative requirements under the federal Endangered Species Act; this was a new requirement of the USFWS under Section 7 related to new water supply projects. Accordingly, it was uncertain as to how this new process would unfold; it took several years for the SCWA, San Juan Water District (SJWD), City of Folsom, and USFWS to develop an appropriate framework with which to undertake a service area analysis related to the new CVP water supply contract. Also during this period of time, Reclamation's long-standing planning and operations hydrologic model for the coordinated CVP/SWP, PROSIM, was being revised to later become known as PROSIM 2000.

The environmental review process for the El Dorado County Water Agency P.L. 101-514 CVP Water Service Contract was reinitiated with circulation of a revised NOP and NOI published in July 1998 (1998 NOI/NOP), following the adoption of an updated General Plan for El Dorado County by the County Board of Supervisors in 1996. During the NOI/NOP public review period, two public scoping sessions were held in August 1998 to solicit public comment formally. Appendix B in this Draft EIS/EIR includes the NOP and NOI materials and responses.

1.2.1. General Plan Update and Measure "Y"

After the circulation of the revised NOI/NOP in 1998, several events occurred involving the El Dorado County General Plan Update that were especially pertinent to this EIS/EIR. Following the 1996 adoption of the County General Plan by the El Dorado County Board of Supervisors, the General Plan EIR was challenged in court for not adequately disclosing certain potential impacts associated with the plan. In February 1999, the Sacramento County Superior Court ruled that, in certain respects, El Dorado County had failed to comply with CEQA in the adoption of its General Plan. Specifically, the Court found that impacts related to traffic, water, and biological resources were not sufficiently addressed. As a result of the Judgment and Writ of Mandate (Writ), issued in July 1999, certification of the General Plan EIR and adoption of the General Plan Update were set aside. The Writ contained orders about rewriting parts of the EIR for the General Plan and what land use activities could take place in the interim. The Writ allowed inclusion of lands that involved existing development agreements entered into between El Dorado County and the developers during the period between the adoption of the General Plan in 1996, and its suspension in 1999. These agreements and developments with approved specific plans were considered Writ-allowed development.

In November 1998, the voters of El Dorado County passed an initiative entitled "Measure Y". The measure was intended to ensure that acceptable levels of service for roadways within El Dorado County would be maintained in the face of substantial future planned residential development.

⁷ The EIS/EIR for CVP water supply contracts under P.L. 101-514 for Sacramento County agencies was completed in April 1999, and the contracts with Sacramento County, San Juan Water District, and the City of Folsom were executed in early 1999.

Implementation of this measure and the updated General Plan directly influenced the extent and nature of future development in the county, and therefore, are relevant to the use and resulting environmental impacts of future water supplies that would be provided under P.L. 101-514.

1.2.2. County of Amador v. El Dorado County Water Agency et al.

Another court decision affecting the current project was issued by the Third District California Court of Appeal, also in 1999. The case of *County of Amador v. El Dorado County Water Agency et al.* (1999) 76 Cal.App.4th 931 established that water supplies cannot be acquired to provide water for growth without a current, officially-adopted General Plan. This court decision was in response to EID's acquisition of 17,000 AFA of Project 184 water, but the implications of the decision prolonged the postponement of this current project. The CVP water supply contract environmental review associated with this EIS/EIR, therefore, could not be completed, nor the contracts executed, before El Dorado County adopted a General Plan and the Writ was lifted.

1.2.3. El Dorado County General Plan Update

Following the 1999 issuance of the Writ, El Dorado County performed additional environmental analyses, resulting in the revision of the General Plan Update and its associated environmental documents by 2003. In July 2004, the County General Plan Update was adopted by the County Board of Supervisors. Shortly after the General Plan Update adoption, in November 2004, the voters of El Dorado County had an opportunity to vote on Measure G. This initiative would have allowed approval of General Plans by ballot initiative, but was soundly rejected by the voters.

In March 2005, the El Dorado County ballot contained a referendum on the General Plan Update passed by the County Board of Supervisors, which the voters passed. In September 2005, the Sacramento County Superior Court determined that the new 2004 General Plan Update and its environmental review satisfied the terms of the Writ, and the Writ was lifted, allowing the full implementation of the General Plan.

The lifting of the Writ was appealed by the El Dorado County Taxpayers for Quality Growth. In response to the challenge, El Dorado County entered into a settlement agreement with Taxpayers for Quality Growth in April 2006, and the appeal was withdrawn. As a result, the 2004 General Plan is now legally binding, and embodies the County's vision of how much population growth the County expects and has planned for through the year 2025. This vision creates the basis for water supply planning by EDCWA, EID, and GDPUD, not only for this current project but for all other ongoing and potential future water supply development initiatives.

1.3. RECENT EVENTS

As noted previously, during the period between the suspension of the El Dorado County General plan in 1999 and the lifting of the Writ in 2005, Reclamation's planning and operations hydrologic modeling tool was being further revised with cooperative assistance from the California Department of Water Resources (DWR). PROSIM 2000 was revised and superseded by the CALSIM II model which now represents the industry standard for coordinated CVP/SWP operational planning. The CALSIM II model, along with the compatible Reclamation environmental models, has been used to analyze potential environmental and socio-economic impacts in this document.

Early in 2006, as Reclamation and EDCWA were set to reinitiate the environmental review process, one remaining technical issue was to ensure that the proposed CALSIM II hydrologic modeling was consistent with the CALSIM II simulations used in the recent updating of the CVP-OCAP in 2004. This confirmation was received during the summer of 2006 with the proviso that no official endorsement of the model or its assumptions could be made by Reclamation, since at the time, the ongoing CVP-OCAP litigation under Judge Wanger was pending.

In September 2006, with the County planning documents and Reclamation operational tools updated, the environmental review process for this contracting action was reinitiated. A third NOI and NOP was deemed necessary due to the elapsed time from the last noticing in 1998. The NOI and NOP were prepared and re-circulated, with the comment period closing on October 16, 2006. Two Public Scoping Meetings were held in September 2006, one in Placerville and one in Greenwood (in the Georgetown Divide area). Public comment and response to the NOI and NOP were taken at the meetings, and by mail through October 16, 2006. Appendix C of this Draft EIS/EIR contains the NOP and NOI, comments on the NOP, and various public and agency notification documents.

Since then, the U.S. Department of the Interior and the U.S. Department of Commerce have come under challenge from various intervenors, including, but not limited to the Natural Resources Defense Council (NRDC), Pacific Coast Federation of Fisherman's Associations/Institute for Fisheries Resources, and the Baykeeper (Delta Keeper Chapter), on the findings of its Biological Opinion (BiOp) for the updated 2004 CVP-OCAP regarding the federally threatened Delta smelt (*Hypomesus transpacificus*), various runs of Chinook salmon (*Onchorhynchus tshawytscha*), steelhead (*Onchorhynchus mykiss*), green sturgeon (*Acipenser medirostris*) and their designated critical habitats. A detailed discussion of the consultations with USFWS and NOAA Fisheries is provided in Chapter 10.0 (Consultation/Coordination and Applicable Laws). Reclamation initiated the formal phase of the consultations in May, 2008 and has been working closely with USFWS, NOAA Fisheries, DWR and the California Department of Fish & Game in the development of the BiOps, coordinating regularly with these agencies. Both BiOps (the NOAA BiOp, as a preliminary draft) have determined that the continued operation of the CVP and SWP as described in the Biological Assessment is likely to jeopardize the continued existence of delta smelt, some salmonids and green sturgeon and adversely modify their critical habitats.

While these consultations are ongoing, Reclamation is continuing to operate the CVP consistent with the provisions of the 2004 CVP-OCAP as conditioned by Judge Wanger's interim rulings; for example, Tracy Pumping Plant levels operated at historic pumping levels. At this time, with the completion of the revised final Biological Assessments in October 2008, along with NOAA Fisheries' preliminary draft BiOp on December 11, 2008 and the USFWS BiOp on December 15, 2008, Reclamation is reviewing the USFWS BiOp and the preliminary draft BiOp from NOAA Fisheries to determine if they can be implemented in a manner that is consistent with the intended purpose of the OCAP, is within Reclamation's legal authority and jurisdiction, and is economically and technologically feasible. NOAA Fisheries' final BiOp, including its final Reasonable and Prudent Alternatives (RPAs), Incidental Take Statement, and associated terms and conditions is expected sometime in June 2009.

This EIS/EIR is consistent with the key CALSIM II and related environmental modeling assumptions that supported the revised August and October 2008 Biological Assessments prepared by Reclamation on the current CVP-OCAP. Certain assumptions relating to new project actions that have been initiated since the completion of Reclamation's modeling, however, have been incorporated and do differ from those used in the final Biological Assessment. These assumptions and their implications are provided in more detail in Subchapter 5.3.3, CALSIM II Simulations, of this document.

1.3.1. Acknowledgement of this New Federal Action

Since the early to mid-1990s, the new anticipated CVP water service contract authorized by P.L.101-514 has been acknowledged by Reclamation, the resource agencies, local and regional water purveyors as well as the environmental interest groups. As noted previously, P.L.101-514, in its entirety, authorized three new CVP water service contracts. Reclamation has completed the necessary NEPA/Fish & Wildlife Coordination Act environmental documentation, supporting consultations required under the federal Endangered Species Act and National Historic Preservation Act, and fully executed two of those water service contracts: with the SCWA, SJWD as well as a subcontract with the City of Folsom through the SCWA. This occurred in 1999.

The landmark Sacramento Area Water Forum Agreement and accompanying EIR, also completed in 1999, acknowledged the EDCWA contract in its future cumulative condition PROSIM hydrologic modeling. All of the purveyor-specific agreements (PSAs) developed within the Water Forum Agreement were based on a future condition hydrology that assumed, in part, diversions of 50,000 acre-feet (AF) annually (constrained by Reclamation's normal CVP allocation shortage policy) of new CVP water from the American River system under the P.L.101-514 legislation (i.e., 35,000 AF annually to the SCWA which included 13,000 AF annually to the San Juan Suburban Water District and 15,000 AF annually to EDCWA).

Moreover, the most recent completed update to the CVP-OCAP in 2004 included the P.L.101-514 water contracts in both its current and future cumulative condition hydrologic modeling (i.e., as a 7,500 acre-foot annual diversion from Folsom Reservoir for EID and a 7,500 acre-foot annual diversion by GDPUD at the Reclamation/PCWA American River Pump Station, captured as reduced inflow into Folsom Reservoir from the North Fork American River). The current CVP-OCAP, therefore, and the operations of the coordinated CVP/SWP for which it controls have, in its current form, already assumed the inclusion of the full EDCWA water contract.

Over the past several years, various federal actions have included, and continue to include the new CVP water service contract for EDCWA in their hydrologic modeling and associated environmental documentation. These have included the Reclamation/PCWA American River Pump Station Project, the Sacramento River Water Reliability Study, the Freeport Regional Water Supply Project, the Environmental Water Account, the Yuba Accord, and the two local Warren Act contracts for the City of Roseville and the Sacramento Suburban Water District (formerly, Northridge Water District), to name but a few.

In short, as of today, not only is the new CVP water service contract for EDCWA assumed to be a part of the regional future cumulative hydrologic condition, but it has also been included in each of

the hydrological modeling simulations that have supported the environmental documents for these various federal actions/projects. Most recently, the collaborative work of the Sacramento Area Water Forum (Water Forum) in developing a new flow management standard for the lower American River known as the *Lower American River Flow Management Standard* (or LAR FMS), also includes or accounts for the new CVP water service contract for EDCWA as contained in the base hydrology from the Water Forum Agreement. It should be noted, however, that while Reclamation supports the concept of an improved flow regime for the lower American River, it is not participating in the further development of the environmental documentation necessary to proceed with this project due to the uncertainty associated with the final NOAA Fisheries BiOp on the CVP-OCAP and Judge Wanger's final ruling.

1.3.2. Focus of this Draft EIS/EIR

The focus of this Draft EIS/EIR is to evaluate the potential environmental and socio-economic impacts of the new EDCWA CVP water service contract authorized under P.L. 101-514. As discussed in more detail in later chapters, this EIS/EIR combines both a program-level and project-level analysis of the potential effects of this action. At the project-level, it addresses the potential direct hydrologic changes to the American River basin and the CVP/SWP, including the Sacramento-San Joaquin River Delta. Detailed hydrologic simulations using CALSIM II and its associated environmental models across an array of action scenarios and alternatives provide the specificity required to determine the potential environmental and socio-economic effects of the new CVP water service contract. All relevant water-related resources rely on these data, as appropriate, to make their impact determinations within both the current and future condition time horizons provided by the modeling framework. These analyses, therefore, are said to be provided at the project-level, whereas the direct effects of the anticipated diversions associated with this new CVP water service contract would accrue.

At the program-level, this EIS/EIR looks at potential long-term indirect effects of this new water contract within the context of existing policies, infrastructure, public services, and population demographics as supported by and codified in the updated County General Plan and EIR. All indirect effects on resources, facilities, and activities within the county that could result from this action (i.e., from the provision of this new water supply) and, as contained within the delineated service areas of EID and GDPUD, have already been thoroughly evaluated as part of an exhaustive General Plan Update and associated EIR, the latter tested through the Sacramento County Superior Court and its Writ of Mandate. As noted previously, in September 2005, the Court determined that the new 2004 General Plan Update and its environmental review satisfied the terms of the Writ, and the Writ was lifted, allowing the full implementation of the General Plan. Accordingly, these effects, as meticulously investigated in the General Plan EIR are not re-evaluated in this EIS/EIR. Furthermore, since no new facilities or infrastructure are part of this new CVP water contracting action, no direct impacts of this new water contract can be reasonably tied to several resource categories that are typically affected by construction-related or direct land conversion or disturbance activities.

Notwithstanding the aforementioned, secondary effects or, indirect effects, are nevertheless important. This EIS/EIR addresses, but does not re-evaluate these effects. The various policies and

ordinances governing land use activities, services, and facilities within El Dorado County and as discussed in the General Plan EIR are referenced, as appropriate. Where future facilities would be required to fully enable the physical diversion of new water by EDCWA's member units, their potential effects on the environment are identified, as appropriate. In most cases, however, the best available information and current conditions indicated that such information was premature and, in many cases, did not exist. It is presumed, however, that any such new facilities would require their own separate and independent environmental reviews once the full details of their design, impact footprint, and related appurtenances are known. Full environmental review of such facilities and their potential impacts, therefore, would not be circumvented; it is simply unavailable at this time.

1.4. DRAFT EIS/EIR ORGANIZATION

This joint Draft EIS/EIR is organized by chapter with the primary environmental impact discussions separated into two categories; Diversion-related Impacts and Indirect and Service Area-related Impacts. These two categories represent the resource categories upon which the project-level and program-level analyses are addressed and presented in the document. Each resource category is prefaced by an Introduction to Analysis subchapter, which describes the methodology, key assumptions, and approach used in the preceding resource impact discussions. Technical Appendices containing archival data, modeling results, notices, and other forms of project documentation are included in separate volumes.