

# **DRAFT ENVIRONMENTAL IMPACT REPORT**

## **LOWER TULE RIVER IRRIGATION DISTRICT CROSS VALLEY CONTRACTORS CONVERSION OF WATER SUPPLY CONTRACTS AND RENEWAL OF CONVEYANCE CONTRACTS**

APRIL 2021

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## CONVERSION OF WATER SUPPLY CONTRACTS AND RENEWAL OF CONVEYANCE CONTRACTS

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Table of Contents

**CHAPTER 1 - Executive Summary..... 1-1**

1.1 - Introduction..... 1-1

1.2 - Project Summary ..... 1-1

    1.2.1 - Project Proponents and Background ..... 1-1

    1.2.2 - Project Description..... 1-2

    1.2.3 - Project-Related Water Supply and Water Exchanges ..... 1-3

1.3 - Lead Agency, Responsible Agency, and Trustee Agencies ..... 1-5

1.4 - Summary of Project Objectives ..... 1-6

1.5 - Scope of the Environmental Impact Report..... 1-6

1.6 - Notice of Preparation ..... 1-7

1.7 - Public Review of the Draft EIR ..... 1-7

1.8 - Environmental Impacts ..... 1-8

    1.8.1 - Impacts Not Further Considered in This EIR..... 1-8

1.9 - Summary of Project Alternatives ..... 1-15

    1.9.1 - Alternatives Considered and Evaluated..... 1-16

1.10 - Environmentally Superior Alternative..... 1-16

1.11 - Growth Inducement..... 1-17

1.12 - Irreversible Impacts ..... 1-17

1.13 - Areas of Controversy..... 1-19

1.14 - Issues to be Resolved ..... 1-19

**CHAPTER 2 - Introduction..... 2-1**

2.1 - Overview ..... 2-1

2.2 - Purpose of This Environmental Impact Report ..... 2-1

    2.2.1 - Issues to be Resolved ..... 2-2

2.3 - Terminology ..... 2-2

2.4 - Decision-Making Process..... 2-4

    2.4.1 - Notice of Preparation ..... 2-4

    2.4.2 - Scoping Meeting ..... 2-5

2.5 - Availability of the Draft EIR..... 2-5

2.6 - Format and Content ..... 2-5

    2.6.1 - Required EIR Content and Organization..... 2-6

2.7 - Responsible and Trustee Agencies ..... 2-7

    2.7.1 - Local Agencies ..... 2-7

    2.7.2 - State Agencies..... 7

    2.7.3 - Federal Agencies ..... 7

2.8 - Incorporation by Reference..... 2-8

    2.8.1 - Reclamation- Policy for Accepting Non-Project Water into the Friant-Kern  
    and Madera Canals Water Quality Monitoring Requirements ..... 2-8

    2.8.2 - Friant-Kern Canal/Cross Valley Canal Intertie Operating Agreement ..... 2-8

2.8.3 - Friant Operational Guidelines .....	2-8
2.8.4 - Friant Water Authority, Friant-Kern Canal: Canal Operations .....	2-8
2.9 - Sources.....	2-9

**CHAPTER 3 - Project Description ..... 3-1**

3.1 - Project Overview .....	3-1
3.2 - Project Location and Environmental Setting .....	3-1
3.2.1 - Overview of the Cross Valley Canal Contractors' CVP Water .....	3-1
3.2.2 - Cross Valley Contractors' Water Use.....	3-5
3.2.3 - Cross Valley Contractors' Allocation .....	3-6
3.3 - Project Background.....	3-6
3.3.1 - Sacramento/San Joaquin Delta .....	3-6
3.3.2 - Central Valley Project Water Facilities.....	3-7
3.3.3 - State Water Project Water Facilities.....	3-9
3.3.4 - Cross Valley Canal.....	3-11
3.3.5 - CV Contractor Water Exchanges/Conveyance .....	3-12
3.4 - Project Objectives.....	3-17
3.5 - Proposed Project .....	3-17
3.5.1 - Project Components.....	3-18
3.6 - Entitlements Required .....	3-18
3.7 - Cumulative Projects .....	3-19

**CHAPTER 4 - Impacts Analysis ..... 4-1**

4.1 - Biological Resources .....	4.1-1
4.1.1 - Introduction .....	4.1-1
4.1.2 - Environmental Setting.....	4.1-1
4.1.3 - Regulatory Setting .....	4.1-10
4.1.4 - Impacts and Mitigation Measures.....	4.1-14
4.2 - Energy .....	4.2-1
4.2.1 - Introduction .....	4.2-1
4.2.2 - Environmental Setting.....	4.2-1
4.2.3 - Regulatory Setting .....	4.2-2
4.2.4 - Impacts and Mitigation Measures.....	4.2-7
4.3 - Greenhouse Gas Emissions .....	4.3-1
4.3.1 - Introduction .....	4.3-1
4.3.2 - Environmental Setting.....	4.3-1
4.3.3 - Regulatory Setting .....	4.3-2
4.3.4 - Impacts and Mitigation Measures.....	4.3-15
4.4 - Hydrology and Water Quality .....	4.4-1
4.4.1 - Introduction .....	4.4-1
4.4.2 - Environmental Setting.....	4.4-1
4.4.3 - Regulatory Setting .....	4.4-7
4.4.4 - Impacts and Mitigation Measures.....	4.4-19
4.5 - Wildfire.....	4.5-1

4.5.1 - Introduction .....	4.5-1
4.5.2 - Environmental Setting.....	4.5-1
4.5.3 - Regulatory Setting.....	4.5-1
4.5.4 - Impacts and Mitigation Measures.....	4.5-2
4.6 - Tribal Cultural Resources .....	4.6-1
4.6.1 - Introduction .....	4.6-1
4.6.2 - Environmental Setting.....	4.6-1
4.6.3 - Regulatory Setting.....	4.6-1
4.6.4 - Impacts and Mitigation Measures.....	4.6-8
<b>CHAPTER 5 - Consequences of Project Implementation.....</b>	<b>5-1</b>
5.1 - Environmental Effects Found to be Less than Significant.....	5-1
5.1.1 - Potential for Less than Significant Impacts to Occur.....	5-1
5.2 - Significant Environmental Effects that Cannot be Avoided.....	5-3
5.3 - Growth Inducing Impacts .....	5-3
5.4 - Significant Irreversible Changes.....	5-4
<b>CHAPTER 6 - Alternatives.....</b>	<b>6-1</b>
6.1 - Introduction.....	6-1
6.1.1 - Significant Impacts of the Project.....	6-2
6.1.2 - Other Impacts of the Project .....	6-5
6.2 - Project Objectives.....	6-5
6.3 - Alternatives Considered but Rejected.....	6-5
6.4 - Alternatives Considered and Evaluated .....	6-6
6.4.1 - Alternative A - No Project Alternative (No water delivery).....	6-6
6.4.2 - Alternative B - No Project Alternative (No use of SWP facilities).....	6-6
6.4.3 - Alternative C –Short-Term Conveyance Agreements to use SWP facilities....	6-7
6.4.4 - Alternative D – Use of Long-Term SWP Contracts to Convey Water on Behalf of SWP Contractor .....	6-8
6.4.5 - Alternative E – Short-Term Conveyance Obligations.....	6-8
6.5 - Environmentally Superior Alternative .....	6-9
<b>CHAPTER 7 - Responses to Comments.....</b>	<b>7-1</b>
<b>CHAPTER 8 - Organizations and Persons Consulted .....</b>	<b>8-1</b>
8.1 - Federal Agencies.....	8-1
8.2 - State Agencies.....	8-1
8.3 - Regional and Local.....	8-1
8.4 - Native American Consultation.....	8-1
<b>CHAPTER 9 - Preparers.....</b>	<b>9-1</b>
9.1 - Lead Agency.....	9-1
Lower Tule River Irrigation District.....	9-1

9.2 - Technical Assistance .....	9-1
QK .....	9-1
<b>CHAPTER 10 - Bibliography .....</b>	<b>10-1</b>

List of Figures

Figure 3-1 Regional Location .....	3-2
Figure 3-2 Water Use Service Areas of the CV Contractors .....	3-3
Figure 3-3 Map of California CVP and SWP Service Areas South-of-Delta .....	3-10
Figure 3-4 CV Contractors Potential Exchange Partners within the CVP Place of Use .....	3-13
Figure 4.4-1 Project Location - Groundwater .....	4.4-28
Figure 4.4-2 FEMA Flood Hazards .....	4.4-29

List of Tables

Table 1-1 Comparison of Alternatives.....	1-18
Table 3-1 Cross Valley Contractors CVP Contract Supply and Average Annual Deliveries .	3-4
Table 3-2 Cross Valley Canal Participants Share of CVC and Intertie Capacity <sup>1</sup> .....	3-11
Table 4.1-1 Federally- or State-listed, Proposed, or Candidate Plant Species Potentially Present in the Project Area or Vicinity.....	4.1-5
Table 4.1-2 Federally- or State-listed, Proposed, or Candidate Wildlife Species Potentially Present in the Project Area or Vicinity.....	4.1-7
Table 4.3-1 Potential GHG Emissions from CV Contractor Water Deliveries.....	4.3-16
Table 4.3-2 Estimated GHG Emissions .....	4.3-17
Table 4.4-1 Summary of Groundwater Subbasin Characteristics .....	4.4-4
Table 6-1 Impacts from Implementation of each Alternative Compared to Proposed Project .....	6-10

List of Appendices

Appendix A – Initial Study/Notice of Preparation
Appendix B-1 – Draft Proposed USBR WIIN Act Repayment Contract
Appendix B-2 – Draft Proposed Long-Term Conveyance Contract
Appendix B-3 – Lower Tule River Irrigation District Interim Renewal Contract (IR-5)
Appendix B-4 – Lower Tule River Irrigation District Interim Renewal Contract (IR-18)
Appendix C – AB 52 Tribal Consultation
Appendix D – Special-Status Species

<b>Abbreviation</b>	<b>Description</b>
AB	Assembly Bill
ACHP	Advisory Council on Historic Preservation
AEWSD	Arvin Edison Water Storage District
af	acre-feet
BO	biological opinion
Aqueduct	California Aqueduct
Banks	Harvey O. Banks Pumping Plant
BGEPA	Bald and Golden Eagle Protection Act
CAFE	Corporate Average Fuel Economy Program
CAL FIRE	California Department of Forestry and Fire Protection
CALGreen Code	California Green Building Standards Code
CAP	Climate Action Plan
CARB	California Air Resources Board
CASGEM	California Statewide Groundwater Elevation Monitoring Program
CCR	California Code of Regulations
CDFW	California Department of Fish and Wildlife
CDPR	California Department of Pesticide Regulation
CEC	California Energy Commission
CESA	California Endangered Species Act
CEQA	California Environmental Quality Act
CFCs	chlorofluorocarbons
CFR	Code of Federal Regulations
cfs	cubic feet per second
CLG	Certified Local Government
CNDDB	California Natural Diversity Database
CNPS	California Native Plant Society
CO	carbon monoxide
COG	Council of Governments
CPUC	California Public Utilities Commission
CSA	County Service Area
CVC	Cross Valley Canal
CV Contractors	Cross Valley Contractors
CVC/FKC Intertie	Friant-Kern Canal / Cross Valley Canal Intertie
CVP	Central Valley Project
CVPIA	Central Valley Project Improvement Act
CVPIA PEIS	Central Valley Project Improvement Act Final Programmatic Environmental Impact Statement
CWA	Clean Water Act
DBCP	dibromochloropropane
DDW	Division of Drinking Water

Delta	Sacramento/San Joaquin Delta
DMC	Delta Mendota Canal
DOC	Department of Conservation
DWR	California Department of Water Resources
DWSAP	Drinking Water Source Assessment Protection Program
EIR	Environmental Impact Report
EO	Executive Order
EPA	Environmental Protection Agency
ETo	evapotranspiration
Farmland	Prime Farmland, Unique Farmland, or Farmland of Statewide Importance
FCAA	Federal Clean Air Act
FESA	Federal Endangered Species Act
FHSZs	Fire Hazard Severity Zones
FKC	Friant-Kern Canal
FR	Federal Register
FRA	Federal Responsibility Area
ft	feet
FWA	Friant Water Authority
GGERP	Greenhouse Gas Emissions Reduction Plan
GHG	greenhouse gas
GP	General Plan
GSAs	groundwater sustainability agencies
GSP	groundwater sustainability plan
HCP	Habitat Conservation Plans
HVID	Hills Valley Irrigation District
ID	irrigation district
IERP	Integrated Policy Energy Report
IPCC	Intergovernmental Panel on Climate Change
IRC	Interim Renewal Contracts
ISO	Independent System Operator
ISTEA	Intermodal Surface Transportation Efficiency Act of 1991
Jones	C.W. Bill Jones Pumping Plant
KCAG	Kings County Association of Governments
KCWA	Kern County Water Agency
KTWD	Kern-Tulare Water District
KWh	kilowatt-hour
LCFS	Low Carbon Fuel Standard
LEED	Leadership in Energy and Environmental Design
LRA	Local Responsibility Area
LTRID	Lower Tule River Irrigation District
MBTA	Migratory Bird Treaty Act



MCLs	maximum contaminant levels
mg/L	milligrams per liter
M&I	Municipal and Industrial
MMTCO <sub>2e</sub>	million metric tons of CO <sub>2e</sub>
MND	Mitigated Negative Declaration
MPOs	Metropolitan Planning Organizations
MT	metric tons
MWh	megawatt-hour
NAGPRA	Native American Graves Protection and Repatriation Act
NAHC	Native American Heritage Commission
NCCP	Natural Communities Conservation Plan
NHPA	National Historic Preservation Act
NHTSA	National Highway Traffic Safety Administration
NMFS	National Marine Fisheries Service
NOA	Notice of Availability
NOC	Notice of Completion
NOP	Notice of Preparation
NPDES	National Pollutant Discharge Elimination System
NPPA	Native Plant Protection Act
NPS	National Park Service
NRHP	National Register of Historic Places
OCAP	CVP and SWP Operational and Criteria Plan
PG&E	Pacific Gas and Electric
PM <sub>10</sub>	particulate matter less than 10 microns in diameter
PM <sub>2.5</sub>	particulate matter less than 2.5 microns in diameter
Project	CVC Contractors Conversion of Water Supply Contracts and Renewal of Conveyance Contacts
PRC	Public Resources Code
PXID	Pixley Irrigation District
REAP	Regional Energy Action Plan
Reclamation	United States Department of Interior, Bureau of Reclamation
RGWD	Rag Gulch Water District
ROG	reactive organic gases
RPA	Reasonable and Prudent Alternative
RPS	Renewable Portfolio Standard
ROD	CVPIA Programmatic Environmental Impact Statement Record of Decision
RRA	Reclamation Reform Act
RWQCB	Regional Water Quality Control Board
SB	Senate Bill
SDWA	Safe Drinking Water Act
SGMA	Sustainable Groundwater Management Act
SHPO	State Historic Preservation Officer

SJRHR	San Joaquin River Hydrologic Region
SJRRP	San Joaquin River Restoration Program
SJV	San Joaquin Valley
SJVAPCD	San Joaquin Valley Air Pollution Control District
SJVB	San Joaquin Valley Basin
SOD	South of Delta
SRA	State Responsibility Area
SWRCB	State Water Resources Control Board
SWP	State Water Project
SWPPP	Stormwater Pollution Prevention Plan
TCR	tribal cultural resource
TDS	total dissolved solids
TLHR	Tulare Lake Hydrologic Region
TMDLs	total maximum daily loads
TVWD	Tri-Valley Water District
UNFCCC	United Nations Framework Convention on Climate Change
USACE	United States Army Corps of Engineers
USFWS	United States Fish and Wildlife Service
USGS	United States Geological Survey
WAPA	Western Area Power Administration
WD	water districts
WIIN Act	Water Infrastructure Improvement for the Nation Act, Pub. L. 114-322
ZNE	zero net energy

## **CHAPTER 1 - EXECUTIVE SUMMARY**

### **1.1 - Introduction**

This Draft Environmental Impact Report (Draft EIR) has been prepared in accordance with the California Environmental Quality Act (CEQA) to evaluate the potential environmental impacts associated with the conversion of each of the Cross Valley (CV) Contractors' water supply contracts with the U.S. Department of Interior, Bureau of Reclamation (Reclamation) pursuant to the Water Infrastructure Improvement for the Nation Act, Pub. L. 114-322 (WIIN Act); and the long-term renewal of a conveyance contract by each of the CV Contractors with Reclamation and the California Department of Water Resources (DWR) (State Clearinghouse No. 2020100075). This Draft EIR has been prepared in compliance with CEQA (Public Resources Code, Section 21000, et seq.); and the CEQA Guidelines (Cal. Code Regs. tit. 14, Section 15000, et seq.).

The purpose of this Draft EIR is to inform public agency decision-makers, representatives of responsible and trustee agencies, the public, and other interested parties of the potential environmental effects that may result from the CV Contractors' conversion of Water Supply Contracts and Renewal of Conveyance Contracts (Project). In addition to identifying potential environmental effects, this Draft EIR also identifies methods by which these impacts can be mitigated, or avoided.

### **1.2 - Project Summary**

#### **1.2.1 - PROJECT PROPONENTS AND BACKGROUND**

There are seven CV Contractors: Lower Tule River Irrigation District, Pixley Irrigation District, Hills Valley Irrigation District, Tri-Valley Water District, the County of Tulare, the County of Fresno, and Kern-Tulare Water District. Each of the seven CV Contractors is a federal Central Valley Project (CVP) water contractor. CV Contractors have three-party contracts with Reclamation and DWR to receive water from the CVP. Under the current three-party water service contracts, Reclamation delivers CVP water to the Sacramento/San Joaquin Delta (Delta), where it is pumped from the Delta and conveyed south. Because of capacity limitations in CVP facilities in the Delta and conveyance limitations, the water has historically been pumped and conveyed from the Delta by DWR in State Water Project (SWP) facilities.

The Cross Valley Canal (CVC) is a water conveyance facility in the southern San Joaquin Valley (SJV) that extends from the California Aqueduct (Aqueduct) near Tupman, east to the Friant-Kern Canal (FKC) and beyond. It can convey water in either direction depending on the operation of the canal. The CVC is used to convey water to the seven CV Contractors. The CVC Contractors are located along the east side of the SJV within Fresno, Kings, Tulare, and Kern counties.

The CV Contractors are physically located along the FKC. Because most CV Contractors do not have turnouts to receive water directly from the CVC, CVP water is delivered

predominately through exchanges and transfers of water with other water districts or agencies. An example of an exchange that has historically been used involved Arvin Edison Water Storage District (AEWSD) receiving CV Contractors' CVP water from the CVC. In return, AEWSD provides the CV Contractors water from AEWSD's CVP water supply using the FKC. Other similar exchange arrangements can be (and have been) utilized to deliver the CV Contractors' CVP water supply from the Delta to the individual CV Contractors' districts. Delivery of the CV Contractors' CVP water may be, and has been, also made directly to CV Contractors by delivery through the CVC and then into the FKC, where it is pumped from south to north over a series of check structures.

The Project proponents are the CV Contractors. Lower Tule River Irrigation District is the Lead Agency for this EIR. DWR is a CEQA responsible agency for this Draft EIR. Each CV Contractor is also a CEQA responsible agency for this Draft EIR and must comply with CEQA relating to its action of executing a converted water supply contract with Reclamation and executing a conveyance contract with DWR and Reclamation.

This Draft EIR addresses the impacts of implementing the proposed Project. This document identifies potential impacts of the Project and evaluates feasible alternatives to the proposed Project.

### **1.2.2 - PROJECT DESCRIPTION**

The proposed Project includes two components for each CV Contractor:

- The approval and execution of a contract with Reclamation that converts, pursuant to the WIIN Act, the CV Contractor's existing water supply contract for CVP water to a repayment contract authorizing prepayment of outstanding CVP construction costs; and
- The approval and execution of a contract with Reclamation and DWR that renews and updates the terms of an existing contract for the conveyance of the CV Contractor's CVP water until 2035.

The proposed conversion of the existing CVP contracts under the WIIN Act, and renewal and updating the conveyance provisions of the existing contracts into separate conveyance contracts, will allow the CV Contractors to continue receiving CVP water in the manner consistent with current and historical practices.

Appendix B-1 is a contractor-proposed draft contract with Reclamation that converts, pursuant to the WIIN Act, the CV Contractor's existing water supply contract for CVP water to a repayment contract authorizing prepayment of outstanding CVP construction costs. This draft proposed contract has not been finalized or approved by Reclamation or DWR and may be subject to change.

Appendix B-2 is a contractor-proposed draft contract with Reclamation and DWR that renews and updates the terms of an existing contract for the conveyance of the CV

Contractor's CVP water until 2035. This draft proposed contract has not been finalized or approved by Reclamation or DWR and may be subject to change.

### **1.2.3 - PROJECT-RELATED WATER SUPPLY AND WATER EXCHANGES**

#### **Water Supply**

The CV Contractors have an annual CVP water contract supply totaling up to 128,300 acre-feet (af). Because of water availability, pumping constraints, available exchanges/transfers, and timing of deliveries, the typical CVP delivery to the CV Contractors is substantially less than the contractual supply amount. Further, CV Contractors' CVP water has only been available in late summer and the fall months. From 1998 to 2019, the annual deliveries of CVP water to CV Contractors have averaged 26,918 af, with a maximum of 118,507 af and a minimum of 0 af. Recently, from 2015 through 2019, the CV Contractors' annual delivery of CVP water has averaged 23,587 af, with a maximum of 40,425 af (2018) and a minimum of 0 af (2016).

Several factors influence and often limit delivery of CVP water to the CV Contractors. First is the available supply. Every year Reclamation announces a contract delivery target that reflects the percentage of each contract's quantity that will be delivered from the CVP to the CVP contractors. A separate delivery target is set for the CVP contractors north of the Delta, in Delta and south of the Delta (SOD). The target reflects the hydrology for the year, total CVP storage, and regulatory constraints, and the target is often less than 100 percent (full contract delivery).

Another factor in the total water supply is the regulatory constraints in the Delta that influence the amount of water that can be conveyed from the Delta. These regulatory constraints generally govern the amount of water that must flow out of the Delta, internal Delta flow, water quality requirements, and the total "take" of listed fish species at the federal C.W. Bill Jones Pumping Plant (Jones) and State Harvey O. Banks Pumping Plant (Banks) Pumping Plant. These regulatory criteria have changed significantly since the original CV Contractors' three-party contracts were signed in the mid-1970s and are likely to continue to evolve.

#### **Historic Transfer and Exchanges**

As stated above, CVP water can typically only reach the CV Contractor's service area through exchanges and transfers. This process involves a CV Contractor negotiating an exchange with one or more other water districts (the Exchange Entity) that exchange the CV Contractor's CVP water for a water supply from that entity. These exchanges/transfers typically involve the CV Contractor and an Exchange Entity, but at times may include another party to facilitate the exchange/transfer. The water supply that is delivered to the CV Contractor district may be CVP water from Millerton Lake or the FKC or could be water from the SWP or other non-CVP water projects on the east side of the San Joaquin Valley, referred to as "pre-1914" water. With the presence of several groundwater banks, the water may be delivered from one of the groundwater banks.

Historically, the various exchanges of CV Contractors' CVP allocations ("CV contract water" or "CVC water") have, in certain instances, included CVC water conveyed into the FKC; using the check structures in the FKC to move the water upstream in the FKC until an operational exchange has been accomplished or water from the CVC is delivered to the CV Contractor.

### **Conversion of Water Service Contracts**

CVP water service contracts are between the United States and individual water users or districts and provide for an allocated supply of CVP water to be applied for beneficial use. Reclamation completed the Final Programmatic Environmental Impact Statement for the Central Valley Project Improvement Act (CVPIA PEIS) in October 1999 and issued the Record of Decision on January 9, 2001. Water service contracts are required for the receipt of CVP water under federal Reclamation law. The contracts govern how CVP water is provided, how charges are allocated for an appropriate share of the federal government's capital investment, and how annual operations and maintenance costs of the CVP are distributed. The CVPIA directs the Secretary of the Department of the Interior to, upon request, renew any existing long-term repayment or water service contract for the delivery of CVP water for a period of 25 years, and may renew such contracts for successive periods of up to 25 years each, following the completion of appropriate environmental review (CVPIA Section 3404[c][1]).

The WIIN Act (P.L. 114-322) was enacted on December 16, 2016, and largely concerned infrastructure activities of the U.S. Army Corps of Engineers. The WIIN Act, however, also provided for, in Title II, Subtitle J, alterations to Reclamation's operation and management of the CVP. Of primary focus here is Section 4011, which provided for the conversion of agricultural and municipal water service contracts to repayment contracts for the purpose of permitting prepayment of construction costs that would otherwise be paid incrementally. WIIN Act, Section 4011 ("Upon request of the contractor, the Secretary of the Interior shall convert any water service contract ... to allow for prepayment of the repayment contract..."). The proposed Project includes converting, pursuant to the WIIN Act, the CV Contractor's existing water supply contract for CVP water to a repayment contract authorizing prepayment of outstanding CVP construction costs. Section 4011 of the WIIN Act directs Reclamation to convert water service contracts to repayment contracts on an accelerated schedule upon a contractor's request and authorizes prepayment of outstanding CVP construction costs, as follows:

- Conversion and prepayment of current water service contracts executed under Section 9(c)(2) and 9(e) of the 1939 Reclamation Project Act (1939 Act);
- Prepayment of obligations under contracts executed in accordance with Section 9(d) of the 1939 Act, also referred to as Existing Repayment Contracts;
- Repayment is either a lump sum or by accelerating prepayment of the remaining construction costs obligations. Obligations will be discounted by  $\frac{1}{2}$  the Treasury Rate; and
- Irrigation contractors may elect either lump sum or accelerated prepayment while municipal and industrial contractors may only pay in lump sum.

The execution and approval of a repayment contract between the United States and the CV Contractors will provide the CV Contractors with a CVP water supply in the same amounts and manner as has been provided under existing water service agreements.

Authority for contract conversions under the WIIN Act sunsets on December 16, 2021, meaning conversion contracts must be executed prior to that date (WIIN Act, Section 4013). Once a contractor has satisfied its payment obligations following conversion, it is no longer subject to periodic renewal, or the acreage limitation and full-cost pricing provisions of the Reclamation Reform Act of 1982 (“RRA,” P.L. 97-293). The concept of acreage limitation provisions with regard to Reclamation irrigation water refers to the ownership limitation and pricing restrictions specified in federal Reclamation law, including but not limited to certain provisions in the RRA (P.L. 97-293; 43 Code of Fed. Regs Parts 426, 428). All CV Contractors have requested the Secretary of the Interior to convert their water service contracts pursuant to the WIIN Act.

### **Water Service Contract Quantities**

Section 4011 of the WIIN Act, directs Reclamation to convert water service contracts to repayment contracts on an accelerated schedule upon a contractor’s request and authorizes prepayment of outstanding CVP construction costs, as discussed above.

Under the Project, the CV Contractor’s existing water service contracts, including the quantities of CVP water made available, would be converted to a repayment contract authorizing prepayment of outstanding CVP construction costs. The quantities of water in the CV Contractors’ contracts would not change as a result of the conversion and authorization to prepay CVP construction costs.

The Reclamation Project Act of 1956 and 1963 mandate the renewal of existing water service contract quantities when beneficially used. The water delivered under these contracts is used for irrigation or Municipal and Industrial (M&I) purposes which are beneficial uses recognized under federal and California law. Due to CV Contractors’ requests for conversion under the WIIN Act and further as a result of the beneficial use of water under those contracts, a reduction in contract quantities is not assumed in this EIR as it would be inconsistent with the CVPIA Programmatic Environmental Impact Statement Record of Decision (ROD), the balancing requirements of CVPIA and the WIIN Act.

### **1.3 - Lead Agency, Responsible Agency, and Trustee Agencies**

The Project applicant and Lead Agency for the proposed Project is the Lower Tule River Irrigation District (LTRID). Pursuant agreement among the CV Contractors and DWR and further pursuant to CEQA Guidelines Section 15051 subdivision (d), LTRID is the designated Lead Agency.

The responsible agencies are State and local public agencies, including CV Contractors other than the Lead Agency that have authority to carry out or approve a project, or that are required to approve a portion of a project for which the Lead Agency is preparing or has

prepared an EIR or Negative Declaration. A complete list of agencies who may have authority as a responsible or trustee agency are listed in Chapter 2, *Introduction*.

### **1.4 - Summary of Project Objectives**

The objectives of the CV Contractors' current water supply and conveyance contracts are:

- Avoid long-term overdraft by achieving a balanced groundwater budget;
- Maintain a diversified water supply, sufficient to supply water for all uses, even during supply shortages;
- Integrate groundwater management with use of CVP and other surface water supplies as available;
- Make use of current conveyance and distribution systems and facilities to fully utilize all water supplies;
- Avoid or correct groundwater levels that are too low to support existing wells;
- Maximize cropland preservation; and
- Maximize the efficiency of delivery, conveyance, and use of CVP water through direct delivery and exchanges of CVP water.

The primary objective of the proposed Project is to continue each of these objectives, by allowing the CV Contractors to continue receiving CVP water in the manner consistent with current and historical practices.

### **1.5 - Scope of the Environmental Impact Report**

The scope of this Draft EIR is based on the Project description outlined in Chapter 3, *Project Description* and the Notice of Preparation (NOP) (Appendix A), focusing review on environmental resources that could experience potentially significant impacts as a result of the proposed Project. Chapter 4, *Environmental Impact Analysis* identifies six resources related to the Project that were determined to be subject to potentially significant impacts in the NOP scoping process, and are addressed in the following sections:

- 4.1 – Biological Resources
- 4.2 – Energy
- 4.3 – Greenhouse Gas Emissions
- 4.4 – Hydrology and Water Quality
- 4.5 – Wildfire
- 4.6 - Tribal Cultural Resources

Sections 4.1 through 4.6 provide detailed discussions of the environmental setting, regulatory setting, methodology for impact assessment for the resource, impacts associated with the Project, and mitigation measures designed to reduce significant impacts where required and when feasible. Cumulative impacts also are discussed.

This EIR examines potential direct and cumulative impacts of the proposed Project. These impacts were determined through a rigorous process mandated by CEQA in which existing



conditions are compared and contrasted with conditions that would exist once the Project is implemented. The significance of each identified impact was determined using CEQA thresholds informed by local thresholds of significance. The following categories are used for classifying impacts:

- **Significant and Unavoidable:** Significant impacts that cannot be feasibly mitigated or avoided. No measures could be taken to avoid or reduce these adverse effects to achieve insignificant or negligible levels. Even after application of feasible mitigation measures, the residual impact would be significant. If the project is approved with significant and unavoidable impacts, decision-makers are required to adopt a Statement of Overriding Considerations pursuant to CEQA Guidelines Section 15093 explaining why benefits of the project outweigh the potential damage caused by these significant unavoidable impacts.
- **Less than Significant with Mitigation:** Such impacts can be reduced to a less-than-significant level with feasible mitigation, which can include incorporating changes to the project. If the proposed project is approved with significant but mitigable impacts, decision-makers are required to make findings pursuant to CEQA Guidelines Section 15091, stating that impacts have been mitigated to the maximum extent feasible and the residual impact would not be significant.
- **Less than Significant:** These adverse but less-than-significant impacts do not require mitigation, nor do they require findings be made.
- **No Impact:** Such impacts are considered to not exist with the implementation of the proposed project or have been found to not apply to the proposed project.

## **1.6 - Notice of Preparation**

The contents of this Draft EIR were established based on the findings in the NOP and attached materials, as well as public and agency input during the scoping period. The LTRID issued the NOP on October 5, 2020 and requested comments on the scope of the EIR. The NOP was circulated to relevant agencies, community organizations, and interested individuals. A public scoping workshop was held on October 26, 2020; a 30-day public comment period closed November 4, 2020 (CEQA Guidelines Section 15082). A copy of the NOP and comments received during the NOP comment period are included in Appendix A.

## **1.7 - Public Review of the Draft EIR**

Upon completion of this Draft EIR, the LTRID prepared and filed a Notice of Completion (NOC) with the California Office of Planning and Research/State Clearinghouse to begin the public review period (Pub. Resources Code, Section 21161). Concurrent with the NOC, the LTRID distributed a Notice of Availability (NOA) in accordance with Section 15087 of the CEQA Guidelines. The NOA was mailed to the organizations and individuals who previously requested such a notice to comply with Public Resources Code Section 21092(b)(3). This Draft EIR was distributed to the California Office of Planning and Research/State Clearinghouse to comply with Section 15087 of the CEQA Guidelines and was distributed to affected agencies, surrounding cities and municipalities, and all interested parties. During

the public review period, this Draft EIR, including the appendices, will be available for review at the following location:

Lower Tule River Irrigation District  
357 East Olive Avenue  
Tipton, CA 93272

Agencies, organizations, individuals, and all other interested parties not previously contacted, or who did not respond to the NOP or attended the scoping meeting, currently have the opportunity to comment on this Draft EIR during the 45-day public review period. Written comments on this Draft EIR should be addressed to:

Attn: Eric Limas, General Manager  
Lower Tule River Irrigation District  
357 East Olive Avenue  
Tipton, CA 93272  
Email: ltrid@ltrid.org

## **1.8 - Environmental Impacts**

Section 15128 of the CEQA Guidelines requires that an EIR contain a statement briefly indicating the reasons that various, possible, new significant effects of a project were determined not to be significant and were therefore not discussed in detail in the EIR. The LTRID has engaged the public to participate in the scoping of the environmental document.

The contents of this Draft EIR were established based on the NOP prepared in accordance with the CEQA Guidelines, as well as public and agency input received during the scoping process. The comments to the NOP are found in Appendix A of this document. Based on the findings of the NOP and the results of scoping, a determination was made that this EIR did not need to further analyze the Project's potential impacts on Aesthetics, Agriculture and Forestry Resources, Air Quality, Cultural Resources, Geology and Soils, Hazards and Hazardous Materials, Land Use and Planning, Mineral Resources, Noise, Population and Housing, Public Services, Recreation, Transportation, and Utilities and Service Systems. The EIR must contain a comprehensive analysis of the remaining environmental issues identified in Appendix G of the CEQA Guidelines.

### **1.8.1 - IMPACTS NOT FURTHER CONSIDERED IN THIS EIR**

As discussed in Appendix A, the proposed Project was determined to have no impact with regard to the following impact thresholds. These issues are not analyzed further in this EIR.

#### **Aesthetics**

- Have a substantial adverse effect on a scenic vista.
- Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway.

- In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings.
- Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area.

### **Agriculture and Forestry Resources**

- Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use.
- Conflict with existing zoning for agricultural use or a Williamson Act contract.
- Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Pub. Resources Code Section 12220[g]), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Govt. Code Section 51104[g]).
- Result in the loss of forest land or conversion of forest land to non-forest use.
- Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use.

### **Air Quality**

- Conflict with or obstruct implementation of the applicable air quality plan.
- Result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is non-attainment under an applicable federal or State ambient air quality standard.
- Expose sensitive receptors to substantial pollutant concentrations.
- Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people.

### **Biological Resources**

- Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.
- Have a substantial adverse effect on State- or federally-protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.
- Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.

### Cultural Resources

- Cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5.
- Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5.
- Disturb any human remains, including those interred outside of formal cemeteries.

### Geology and Soils

- Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault.
- Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking.
- Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving seismic-related ground failure, including liquefaction.
- Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving landslides.
- Result in substantial soil erosion or the loss of topsoil.
- Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the Project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse.
- Be located on expansive soil, as defined in Table 181B of the Uniform Building Code (1994), creating substantial risks to life or property.

### Hazards and Hazardous Materials

- Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.
- Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.
- Emit hazardous emissions or involve handling hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.
- Be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment.
- For a Project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project result in a safety hazard or excessive noise for people residing or working in the Project Area.

- Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan.
- Expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires.

### **Hydrology and Water Quality**

- In flood hazard, tsunami, or seiche zones, risk release of pollutants due to Project inundation.

### **Land Use and Planning**

- Physically divide an established community.
- Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.

### **Mineral Resources**

- Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the State.
- Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan.

### **Noise**

- Result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the Project in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies.
- Result in generation of excessive ground-borne vibration or ground-borne noise levels.
- For a Project located within the vicinity an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project expose people residing or working in the Project Area to excessive noise levels.

### **Population and Housing**

- Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure).
- Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere.

### Public Services

- Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or to other performance objectives for any of the public services - Fire Protection? Police Protection? Schools? Parks? Other Public Facilities.

### Recreation

- Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated.
- Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment.

### Transportation

- Conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities.
- Conflict with or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b).
- Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).
- Result in inadequate emergency access.

### Utilities and Service Systems

- Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction of which could cause significant environmental effects.
- Have sufficient water supplies available to serve the Project and reasonably foreseeable future development during normal, dry, and multiple dry years.
- Result in a determination by the wastewater treatment provider that serves or may serve the Project that it has adequate capacity to serve the Project's projected demand in addition to the provider's existing commitments.
- Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals.
- Comply with federal, State, and local statutes and regulations related to solid waste.

## **No Potential for Impacts to Occur**

Potential environmental effects of the Project and mitigation measures are discussed in detail in Chapter 4 of this EIR. After full analysis, the following effects were determined to have no potential for impacts to occur:

### **Biological Resources**

- Impact 4.1-1: Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.
- Impact 4.1-2: Interfere substantially with the movement of any native resident or migratory fish or wildlife species, or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.
- Impact 4.1-3: Conflict with provisions of an adopted habitat conservation plan, natural communities conservation plan, or other approved local, regional, or State habitat conservation plan.

### **Energy**

- Impact 4.2-2: Conflict with or obstruct a State or local plan for renewable energy or energy efficiency.

### **Hydrology and Water Quality**

- Impact 4.4-1: Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality.
- Impact 4.4-2: Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the Project may impede sustainable groundwater management of the basin.
- Impact 4.4-3(i): Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on- or off-site.
- Impact 4.4-3(ii): Substantially alter the existing drainage pattern of the site or area, including the alteration of the course of a stream or river or through the addition of impervious surfaces, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site.
- Impact 4.4-3(iii): Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or through the addition of impervious surfaces, in a manner which would create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff.
- Impact 4.4-3(iv): Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or through the

addition of impervious surfaces, in a manner which would impede or redirect flood flows.

- Impact 4.4-4: In flood hazard, tsunami, or seiche zones, risk release of pollutants due to Project inundation.

### **Potential for Less-than-Significant Impacts**

The following Project-related impacts were determined to be less than significant:

#### **Energy**

- Impact 4.2-1: Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during Project construction or operation.

#### **Greenhouse Gas Emissions**

- Impact 4.3-1: Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment.
- Impact 4.3-2: Conflict with any applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases.

#### **Wildfire**

- Impact 4.5-1: Substantially impair an adopted emergency response plan or emergency evacuation plan.
- Impact 4.5-2: Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose Project occupants to, pollutant concentration from a wildfire or the uncontrolled spread of a wildfire.
- Impact 4.5-3: Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment.
- Impact 4.5-4: Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes.

#### **Tribal Cultural Resources**

- Impact 4.6-1: Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is listed or eligible for listing in the California Register of Historical Resources, or in a Local Register of Historical Resources as defined in Public Resources Code Section 5020.1(k).



- Impact 4.6-2: Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is a resource determined by the Lead Agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1.

### **Unavoidable Significant Adverse Impacts**

Section 15126.2 of the CEQA Guidelines requires that the EIR describe any significant impacts, including those that can be mitigated but not reduced to less-than-significant levels. However, for the proposed Project, none of the potential effects from implementation of the proposed Project are significant and unavoidable.

### **Significant Cumulative Impacts**

According to Section 15355 of the CEQA Guidelines, the term *cumulative impacts* “refers to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.” Individual effects that may contribute to a cumulative impact may be from a single project or a number of separate projects. Individually, the impacts of a project may be relatively minor, but when considered along with impacts of other closely related or nearby projects, including newly proposed projects, the effects could be cumulatively considerable.

This EIR has considered the potential cumulative effects of the proposed Project on the following environmental resources:

- Biological Resources
- Energy
- Greenhouse Gas Emissions (GHG)
- Hydrology and Water Quality
- Wildfire
- Tribal Cultural Resources

Each of these significant cumulative impacts is discussed in the applicable section of Chapter 4, *Environmental Analysis*, of this EIR. None of the Project’s cumulative impacts were found to be cumulatively considerable.

## **1.9 - Summary of Project Alternatives**

Below is a summary of the alternatives to the proposed Project, that have been considered and evaluated in Chapter 6, *Alternatives to the Proposed Project*, as well as those alternatives that have been considered but rejected.

### 1.9.1 - ALTERNATIVES CONSIDERED AND EVALUATED

- *Alternative A – No Project (No Water Delivery).* This alternative assumes that no CVP water delivery will take place to the CV Contractors, no exchanges would occur, and there would be no mechanism for conveyance of water to the CV Contractors. This alternative would increase the demand of groundwater pumping, which would be in conflict with implementation of the Sustainable Groundwater Management Act (SGMA) and would ultimately result in the fallowing of significant acreage currently in production.
- *Alternative B – No Project (No Use of SWP Facilities).* This alternative assumes that there will be no contract between the CV Contractors, DWR, and Reclamation to convey the CVP supply to the CV Contractors through the Aqueduct. The CV Contractors would have to rely on other facilities or arrangements to convey their CVP water supply from the Delta. This alternative would create uncertainty in the water supply for CV Contractors and may lead to increased reliance on groundwater supplies and fallowing of agriculture land. This in turn, represents a greater impact to the region's groundwater supply than with the proposed Project.
- *Alternative C – Short-Term Conveyance to Use SWP Facilities.* This alternative would generate additional costs and delays for negotiating one or more of these agreements per year, require additional CEQA review, and create substantial uncertainty in the timing and delivery of available water supply.
- *Alternative D – Use of Long-Term SWP Contracts to Convey Water on Behalf of SWP Contractor.* Under this alternative, agreements would be negotiated for each exchange or transfer with tremendous variability within a year and between years due to a limited number of potential SWP partners in any given year. This alternative would generate additional costs for negotiating the transfer or exchange agreements and environmental compliance.
- *Alternative E – Short-Term Conveyance Obligations.* This alternative would have negative direct effects on groundwater because the CV Contractors would likely increase groundwater pumping for water supply.

### 1.10 - Environmentally Superior Alternative

CEQA requires that LTRID identify an Environmentally Superior Alternative. The proposed Project is considered the environmentally superior alternative because it has no significant environmental impacts and meets all project objectives. Failure to secure conveyance under the *Alternative A* (no water delivery) and *Alternative B* (because a long-term conveyance contract is not available) creates uncertainty in the water supply for CV Contractors and may lead to increased reliance on groundwater supplies. This represents a greater impact to the region's groundwater supply than with the proposed Project. *Alternative C* and *Alternative D* each would have negative direct effects on air quality, greenhouse gas emissions, and surface water and groundwater supplies. *Alternative E* would have negative direct effects on groundwater because the CV Contractors would likely increase groundwater pumping for water supply. None of these alternatives would further reduce impacts beyond the proposed Project. In summary, the proposed Project does not have any significant impacts in which an alternate would reduce; therefore, the proposed Project is environmentally superior.

Finally, the proposed Project establishes a conveyance mechanism for the term of the contract and the provided certainty in water deliveries until February 28, 2035, when the conveyance agreements would expire.

### **1.11 - Growth Inducement**

Section 15126.2(e) of the CEQA Guidelines provides the following guidance on growth-inducing impacts: a project is identified as growth inducing if it “could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment.”

The proposed Project would not stimulate the economy to a level that would foster either economic or population growth. In summary, converting the CV Contractors’ water supply contracts pursuant to the terms of the WIIN Act and renewing the CV Contractors’ conveyance contracts would allow the CV Contractors to continue to receive CVP water in the manner consistent within current and historical practices since the mid-1970s. The Project will enable the economies of those areas to maintain current activities. Therefore, the proposed Project would not directly stimulate demand for housing and local services and would not induce additional jobs or population in the CV Contractors’ water use service areas.

### **1.12 - Irreversible Impacts**

Section 15126.2(d) of the CEQA Guidelines defines an irreversible impact as an impact that uses non-renewable resources during the initial and continued phases of the project. Irreversible impacts can also result from damage caused by environmental accidents associated with the project. A resource commitment is considered irreversible when direct and indirect impacts from its use limit future use options. Irreversible commitments apply primarily to non-renewable resources, such as cultural resources, and to those resources that are renewable only over long periods of time, such as soil productivity. A resource commitment is considered irretrievable when the use or consumption of the resource is neither renewable nor recoverable for future use. Irretrievable commitments apply to loss of production, harvest, or use of natural resources. None of the potential effects from implementation of the proposed Project would result in the irreversible and/or irretrievable commitments of resources as compared to existing conditions. The consumption of electrical energy for pumping CVP water at the Delta, at Dos Amigos Pumping Plant, and in the CVC could be seen as an irreversible consumption of electrical power. However, the power comes largely from CVP hydroelectric power plants, which provide a carbon-free source of electrical energy.

**Table 1-1  
Comparison of Alternatives**

Affected Resource	Proposed Project Long-term Conveyance Contract		Alternatives									
			Alternative A No Project (No Water Delivery)		Alternative B No Project (No Use of SWP Facilities)		Alternative C Short-Term Conveyance to Use SWP Facilities		Alternative D Use of Long-Term SWP Contracts to Convey Water on Behalf of SWP Contractor		Alternative E Short-Term Conveyance Obligations	
Impacts	Direct	Indirect	Direct	Indirect	Direct	Indirect	Direct	Indirect	Direct	Indirect	Direct	Indirect
Agriculture	No Impact	No Impact	No Change	Increased Impact	No Change	Increased Impact	No Change	Increased Impact	No Change	Increased Impact	No Change	Increased Impact
Air Quality	No Impact	No Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact
Biological	No Impact	No Impact	No Change	No Change	Increased Impact	Increased Impact	No Change	No Change	No Change	No Change	No Change	No Change
Greenhouse Gas Emissions	No Impact	No Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact
Hydrology and Water Quality	No Impact	No Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact
Tribal Resources	No Impact	No Impact	No Change	No Change	Increased Impact	Increased Impact	No Change	No Change	No Change	No Change	No Change	No Change

Increased Impact = Impacts are expected to increase in severity when compared to the Proposed Project.

No Change = There would be no change in the level of impact significance when compared to the Proposed Project. Impacts would essentially be the same as those identified for the Proposed Project.

No Impact = There would be no significant impacts associated with the alternative if it were to be implemented.

### **1.13 - Areas of Controversy**

Areas of controversy are identified through written agency and public comments received during the scoping period. One comment letter was received from the Native American Heritage Commission (NAHC), dated October 5, 2020, recommending consultation with California Native tribes that are traditionally and culturally affiliated with the geographic area of the proposed Project to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources.

While no comment was received during the scoping period for this Project regarding water quality, in the past certain agencies have expressed concerns regarding the delivery of CVP water to the CV Contractors relating to water quality. Areas of controversy generally include that CVP water delivered through the Delta differs in quality from CVP water delivered through Millerton Lake. However, as noted the Project is a continuation of baseline activities: the Project allows the CV Contractors to continue to receive CVP water in the manner consistent with current and historical practices.

The Center for Biological Diversity, Restore the Delta, and Planning and Conservation League have challenged Reclamation's conversion of certain water service contracts under the WIIN Act under the National Environmental Policy Act and the Administrative Procedure Act. The litigation commenced on May 20, 2020 in the United States District Court for the Eastern District of California and is ongoing. None of the CV Contractors are parties in that case.

### **1.14 - Issues to be Resolved**

Section 15123(b)(3) of the CEQA Guidelines requires that an EIR contain issues to be resolved, which includes the choices among alternatives and whether or how to mitigate significant impacts. The major issues to be resolved regarding the Project include decisions by the Lead Agency as to whether:

- The Draft EIR adequately describes the environmental impacts of the Project; or
- Mitigation measures should be adopted or modified.

## **CHAPTER 2 - INTRODUCTION**

### **2.1 - Overview**

The LTRID is the Lead Agency pursuant to the requirements of CEQA and is responsible for preparing this Draft EIR. In accordance with Section 15082 of the CEQA Guidelines, LTRID published a NOP. This Draft EIR will be used by LTRID to both evaluate the potential environmental impacts that could result from implementation of the Project and evaluate changes in the proposed Project and/or adopt mitigation measures or alternatives which could address those impacts.

This EIR has been prepared pursuant to the following relevant statutes and regulations:

- CEQA (Public Resources Code, Section 21000 et seq.); and
- CEQA Guidelines (Cal, Code of Regs., tit. 14, Section 15000 et seq.).

The overall purposes of the CEQA process are to:

- Identify the significant effects to the environment of a project, identify alternatives, and to indicate the manner in which those significant effects can be avoided or mitigated;
- Provide for full disclosure of the project's environmental effects to the public, the agency decision-makers who will approve or deny the project, responsible agencies, and trustee agencies with jurisdiction over natural resources affected by a project; and
- Provide a forum for public participation in the decision-making process with respect to environmental effects.

### **2.2 - Purpose of This Environmental Impact Report**

An EIR is a public informational document used in the planning and decision-making process. This project-level EIR will analyze the environmental impacts of the Project. The LTRID Board of Directors will consider the information in the Draft and Final EIR, including the public comments received and staff response to those comments, during the public hearing process. The final decision is made by the LTRID Board of Directors, which may approve, conditionally approve, or deny the Project. The purpose of an EIR is to identify:

- The significant potential impacts of the project on the environment and indicate the manner in which those significant impacts can be avoided or mitigated;
- Any unavoidable adverse impacts that cannot be mitigated; and
- Feasible alternatives to the project that would eliminate any significant adverse environmental impacts or reduce the impacts to a less-than-significant level.

An EIR also discloses growth-inducing impacts; impacts found not to be significant; and significant cumulative impacts of the project when taken into consideration with past, present, and reasonably anticipated future projects.

CEQA requires an EIR that reflects the independent judgment of the Lead Agency regarding the impacts, the level of significance of the impacts both before and after mitigation, and mitigation measures proposed to reduce the impacts. A Draft EIR is circulated to responsible agencies, trustee agencies with jurisdiction over resources affected by the project and interested agencies and individuals. The purposes of public and agency review of a Draft EIR include sharing expertise, disclosing agency analyses, checking for accuracy, detecting omissions, discovering public concerns, and soliciting mitigation measures and alternatives capable of avoiding or reducing the significant effects of the project, while still attaining most of the basic objectives of the project.

Reviewers of a Draft EIR are requested to focus on the sufficiency of the document in identifying and analyzing the possible impacts on the environment and ways in which the significant effects of the project might be avoided or mitigated. Comments are most helpful when they suggest additional specific alternatives or mitigation measures that would provide better ways to avoid or mitigate significant environmental effects.

### **2.2.1 - ISSUES TO BE RESOLVED**

Section 15123(b)(3) of the CEQA Guidelines requires that an EIR contain issues to be resolved, which includes the choices among alternatives and whether or how to mitigate significant impacts. The major issues to be resolved regarding the project include decisions by the Lead Agency as to whether or not:

- The Draft EIR adequately describes the environmental impacts of the project,
- The recommended mitigation measures should be adopted or modified, and
- Additional mitigation measures need to be applied.

### **2.3 - Terminology**

To assist reviewers in understanding this EIR, the following terms are defined:

- *Project* means the whole of an action that has the potential for resulting in a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.
- *Environment* means the physical conditions that exist in the area and which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historical or aesthetic significance. The area involved is where significant direct or indirect impacts would occur as a result of the project. The environment includes both natural and manmade (artificial) conditions.
- *Impacts* analyzed under CEQA must be related to a physical change. Impacts are:
  - Direct or primary impacts that would be caused by a proposed project and would occur at the same time and place;
  - Indirect or secondary impacts that would be caused by a proposed project and would be later in time or farther removed in distance but would still be reasonably foreseeable. Indirect or secondary impacts may include growth-inducing impacts and other effects related to induced changes in the pattern of land use; population

- density or growth rate; and related effects on air and water and other natural systems, including ecosystems;
- The California Supreme Court recently ruled that the environment's impact on a project fall outside the scope of CEQA except to the extent that impacts from a project exacerbate such impacts. This EIR includes the environment's impacts on a project for informational purposes, and to address the exacerbation component of the Court's decision.
  - *Significant impact on the environment* means a substantial, or potentially substantial, adverse change in any of the physical conditions in the area affected by a proposed project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historical or aesthetic significance. An economic or social change by itself is not considered a significant impact on the environment. A social or economic change related to a physical change may be considered in determining whether the physical change is significant.
  - *Mitigation* consists of measures that avoid or substantially reduce a proposed project's significant environmental impacts by:
    - Avoiding the impact altogether by not taking a certain action or parts of an action;
    - Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
    - Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
    - Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; or
    - Compensating for the impact by replacing or providing substitute resources or environments.
  - *Cumulative impacts* are two or more individual impacts that, when considered together, are considerable or that compound or increase other environmental impacts. The following statements also apply when considering cumulative impacts:
    - The individual impacts may be changes resulting from a single project or separate projects; and
    - The cumulative impact from several projects is the change in the environment that results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over time.

This EIR uses a variety of terms to describe the level of significance of adverse impacts. These terms are defined as follows:

- *Less than significant.* An impact that is adverse but that does not exceed the defined thresholds of significance. Less-than-significant impacts do not require mitigation.
- *Significant.* An impact that exceeds the defined thresholds of significance and would or could cause a substantial adverse change in the environment. Mitigation measures are recommended to eliminate the impact or reduce it to a less-than-significant level.



- *Significant and unavoidable.* An impact that exceeds the defined thresholds of significance and cannot be eliminated or reduced to a less-than-significant level through the implementation of mitigation measures.

## **2.4 - Decision-Making Process**

CEQA requires lead agencies to solicit and consider input from other interested agencies, citizen groups, and individual members of the public. CEQA also requires a project to be monitored after it has been approved to ensure that mitigation measures are carried out.

CEQA requires the Lead Agency to provide the public with a full disclosure of the expected environmental consequences of a proposed project and with an opportunity to provide comments. In accordance with CEQA, the following is the process for public participation in the decision-making process:

- **Notice of Preparation.** The LTRID prepared and circulated a NOP to responsible, trustee, and local agencies for review and comment on October 5, 2020. The NOP and responses to the NOP are included in Appendix A of this EIR. In accordance with social distancing guidance related to the Novel Coronavirus (COVID-19), a virtual scoping meeting was held on October 26, 2020 at 11:00 a.m. via Zoom Video Communications. The link, along with Meeting ID and Passcode, and a dial-in number for telephonic access for the virtual scoping meeting were included in the NOP.
- **Draft EIR Preparation.** A Draft EIR is prepared, incorporating public and agency responses to the NOP and scoping process. The Draft EIR is circulated for review and comment to appropriate agencies and additional individuals and interest groups who have requested to be notified. Per Section 15105 of the CEQA Guidelines, the LTRID will provide for a 45-day public review period on the Draft EIR. LTRID will subsequently respond to each comment on the Draft EIR received in writing through a Response to Comments chapter in the Final EIR. The Response to Comments will be provided to each agency or person who provided written comments on the EIR a minimum of 10 business days before the scheduled LTRID Board hearing on the Final EIR.
- **Preparation and Certification of Final EIR.** The LTRID Board will consider the Final EIR, all public comments, and take final action on the Project. At least one public hearing will be held by LTRID to consider the Final EIR, take public testimony, and then approve, conditionally approve, or deny the Project.

### **2.4.1 - NOTICE OF PREPARATION**

Pursuant to Section 15082 of the CEQA Guidelines, LTRID circulated a NOP to the State Clearinghouse, public agencies, special districts, and members of the public for a public review period beginning October 5, 2020 and ending November 4, 2020. The purpose of the NOP is to formally convey that the LTRID, as the Lead Agency, solicited input regarding the scope and proposed content of the EIR. The NOP and all comment letters are provided in Appendix A of this EIR.

### **2.4.2 - SCOPING MEETING**

Pursuant to Section 15206 of the CEQA Guidelines, the Lead Agency is required to conduct at least one scoping meeting for all projects of statewide, regional, or area-wide significance. The scoping meeting is for jurisdictional agencies and interested persons or groups to provide comments regarding, but not limited to, the range of actions, alternatives, mitigation measures, and environmental effects to be analyzed. In accordance with current social distancing guidance related to COVID-19, LTRID hosted a virtual scoping meeting at 11:00 a.m. on October 26, 2020, via Zoom Video Communications.

#### **NOP and Scoping Meeting Results**

One comment letter was received from the NAHC, dated October 5, 2020, recommending consultation with California Native tribes that are traditionally and culturally affiliated with the geographic area of the proposed Project to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources.

No individuals presented oral comments during the October 26, 2020 scoping meeting. The NOP is included in Appendix A, along with the Summary of Proceedings from the scoping meeting.

### **2.5 - Availability of the Draft EIR**

This Draft EIR is being distributed directly to agencies, organizations, and interested groups and persons for comment during a 45-day formal review period in accordance with Section 15087 of the CEQA Guidelines. This Draft EIR for the Project, including all studies and reference documents, is available for review, by appointment, during normal business hours Monday through Friday at the LTRID office, located at:

Lower Tule River Irrigation District  
357 East Olive Avenue  
Tipton, CA 93272  
Phone: (559) 686-4716

### **2.6 - Format and Content**

This Draft EIR addresses the potential environmental effects of the Project and was prepared following input from the public and the responsible and affected agencies, through the EIR scoping process, as discussed previously. The contents of this Draft EIR were established based on the findings in the NOP and public and agency input. Based on the findings of the NOP, a determination was made that an EIR was required to address potentially significant environmental effects on the following resources:

- Biological Resources
- Energy
- Greenhouse Gas Emissions
- Hydrology and Water Quality
- Wildfire
- Tribal Cultural Resources

### 2.6.1 - REQUIRED EIR CONTENT AND ORGANIZATION

The content and organization of this Draft EIR are designed to meet the requirements of CEQA and the CEQA Guidelines, as well as to present issues, analysis, mitigation, and other information in a logical and understandable way. This Draft EIR is organized into the following chapters:

- Chapter 1, *“Executive Summary,”* provides a Project description and a summary of the environmental impacts and mitigation measures.
- Chapter 2, *“Introduction,”* provides CEQA compliance information, an overview of the decision-making process, organization of the EIR, and a responsible and trustee agency list.
- Chapter 3, *“Project Description,”* provides a description of the location, characteristics, and objectives of the Project, and the relationship of the Project to other plans and policies.
- Chapter 4, *“Impacts Analysis,”* contains a detailed environmental analysis of the existing conditions, potential Project impacts, mitigation measures, and unavoidable adverse impacts, if any.

The analysis of each environmental category in Chapter 4 is organized as follows:

- *“Introduction”* provides a brief overview on the purpose of the environmental resource being analyzed with regard to the Project.
- *“Environmental Setting”* describes the physical conditions that exist at the time the NOP was circulated for public comment and that may influence or affect the topic being analyzed.
- *“Regulatory Setting”* provides State and federal laws, applicable County General Plan (GP) goals, policies, and implementation measures that apply to the topic being analyzed.
- *“Impacts and Mitigation Measures”* discusses the impacts of the Project in each category, including direct, indirect, and cumulative impacts, presents the determination of the level of significance, and provides a discussion of feasible mitigation measures to reduce any impacts.
- Chapter 5, *“Consequences of Project Implementation (Mandatory CEQA Sections),”* presents an analysis of the Project’s cumulative and growth-inducing impacts and other CEQA requirements, including significant and unavoidable impacts and irreversible commitment of resources.
- Chapter 6, *“Alternatives,”* describes a reasonable range of alternatives to the Project.
- Chapter 7, *“Responses to Comments,”* is reserved for responses to comments on this Draft EIR.
- Chapter 8, *“Organizations and Persons Consulted,”* lists the organizations and persons contacted during preparation of this Draft EIR.
- Chapter 9, *“Preparers,”* identifies persons involved in the preparation of the Draft EIR.
- Chapter 10, *“Bibliography,”* identifies reference sources for the Draft EIR.
- *“Appendices”* provide information and technical studies that support the environmental analysis contained within the Draft EIR.

## 2.7 - Responsible and Trustee Agencies

Projects or actions undertaken by the Lead Agency, in this case the LTRID, may require subsequent oversight, approvals, or permits from other public agencies in order to be implemented. Other such agencies are referred to as “responsible agencies” and “trustee agencies.” Pursuant to Sections 15381 and 15386 of the CEQA Guidelines, as amended, responsible agencies and trustee agencies are defined as follows:

- A “responsible agency” is a public agency that proposes to carry out or approve a project, for which a Lead Agency is preparing or has prepared an EIR or Negative Declaration. For the purposes of CEQA, the term “responsible agency” includes all public agencies other than the Lead Agency that have discretionary approval power over the project (Section 15381).
- A “trustee agency” is a State agency having jurisdiction by law over natural resources affected by a project that are held in trust for the people of the State of California (Section 15386).

### 2.7.1 - LOCAL AGENCIES

Likely responsible and trustee agencies for the Project include:

- San Joaquin Valley Air Pollution Control District (SJVAPCD)
- Pixley Irrigation District
- Hills Valley Irrigation District
- Tri-Valley Water District
- County of Tulare
- County of Fresno
- Kern-Tulare Water District

### 2.7.2 - STATE AGENCIES

- California Air Resources Board (CARB)
- California Department of Fish and Wildlife (CDFW)
- Department of Water Resources (DWR)
- Governor’s Office of Planning and Research
- Regional Water Quality Control Board (RWQCB), Central Valley Region
- California Department of Food and Agriculture
- California Environmental Protection Agency

### 2.7.3 - FEDERAL AGENCIES

Federal agencies with an interest in the project may include:

- U.S. Environmental Protection Agency
- U.S. Fish and Wildlife Service (USFWS)
- U.S. Department of Energy, Western Area Power Administration
- U.S. Bureau of Reclamation

## **2.8 - Incorporation by Reference**

In accordance with Section 15150 of the CEQA Guidelines, to reduce the size of the report, the following documents are hereby incorporated by reference into this Draft EIR and are available for public review at the LTRID District Office. A brief synopsis of the scope and content of these documents is provided below.

### **2.8.1 - RECLAMATION- POLICY FOR ACCEPTING NON-PROJECT WATER INTO THE FRIANT-KERN AND MADERA CANALS WATER QUALITY MONITORING REQUIREMENTS**

This policy document describes the approval process, implementation procedures, and responsibilities of a contractor requesting permission from Reclamation to introduce non-project water into the FKC and Madera Canals, features of the Friant Division of the CVP. The monitoring requirements contained herein are intended to ensure that water quality is protected and that domestic and agricultural water users are not adversely impacted by the introduction of non-project water. The discharge of non-project water shall not in any way limit the ability of either Reclamation or the Friant Water Authority (FWA) to operate and maintain the Canals for their intended purposes nor shall it adversely impact existing contracts or any other agreements. The discharge of non-project water into the Canals will be permissible only when there is excess capacity in the system as determined by FWA and or Reclamation.

### **2.8.2 - FRIANT-KERN CANAL/CROSS VALLEY CANAL INTERTIE OPERATING AGREEMENT**

This agreement was made and entered into effect on April 23, 2010, by and among the FWA and the Kern County Water Agency (KCWA). Per the agreement FWA shall allow KCWA to deliver water through the CVC/FKC Intertie to or from the FKC for approved deliveries to the terms and conditions of the Friant Division water service contracts, the transfer agreement and the Friant operational guidelines.

### **2.8.3 - FRIANT OPERATIONAL GUIDELINES**

The purpose of these guidelines is to establish the procedures to be used in managing the water supplies of the Friant Division, CVP. The intent is to define and set forth the priority of water service, water scheduling, and proration guidelines used in the Friant Division Service Area so that the water supplies may be optimized and managed efficiently system-wide and in compliance with the water service contracts and the operations and maintenance agreement(s) between the United States and the operating non-federal entity.

### **2.8.4 - FRIANT WATER AUTHORITY, FRIANT-KERN CANAL: CANAL OPERATIONS**

This document gives a detailed description of the FKC and its facilities and operations procedures including operating instructions, water operations/canal system operators, water order, filling limits, draw down limits, water surface elevations, alarms, water measurements, water delivery discrepancies, well water/supplemental flows, reverse flow, water accounting/reports and emergency procedures.

## **2.9 - Sources**

This Draft EIR is dependent upon information from many sources. Other sources provide background information related to one or more issue areas that are discussed in this document. The sources and references used in the preparation of this Draft EIR are listed in Chapter 10, *Bibliography*, and are available for review during normal business hours at:

Lower Tule River Irrigation District  
357 East Olive Avenue  
Tipton, California 93272

## CHAPTER 3 - PROJECT DESCRIPTION

### 3.1 - Project Overview

This Draft EIR has been prepared to identify and evaluate potential environmental impacts associated with the proposed Project. The proposed Project includes two components for each CV Contractor:

- The approval and execution of a contract with Reclamation that converts, pursuant to the WIIN Act, the CV Contractor's existing water supply contract for CVP water to a repayment contract authorizing prepayment of outstanding CVP construction costs; and
- The approval and execution of a contract with Reclamation and DWR that renews the terms of an existing contract for the conveyance of the CV Contractor's CVP water until 2035.

The proposed conversion of the existing CVP contracts under the WIIN Act, and renewal and updating the conveyance provisions of the existing contracts into separate conveyance contracts, will allow the CV Contractors to continue receiving CVP water in the manner consistent with current and historical practices.

Appendix B-1 is a contractor-proposed draft contract with Reclamation that converts, pursuant to the WIIN Act, the CV Contractor's existing water supply contract for CVP water to a repayment contract authorizing prepayment of outstanding CVP construction costs. This draft proposed contract has not been finalized or approved by Reclamation or DWR and may be subject to change.

Appendix B-2 is a contractor-proposed draft contract with Reclamation and DWR that renews and updates the terms of an existing contract for the conveyance of the CV Contractor's CVP water until 2035. This draft proposed contract has not been finalized or approved by Reclamation or DWR and may be subject to change.

### 3.2 - Project Location and Environmental Setting

#### 3.2.1 - OVERVIEW OF THE CROSS VALLEY CANAL CONTRACTORS' CVP WATER

The CV Contractors are located along the FKC and consist of the following seven water districts (WD), irrigation districts (ID), and county contractors: LTRID, Pixley ID, Hills Valley ID, Tri-Valley WD, County of Tulare, County of Fresno, and Kern-Tulare WD. Previously, Rag Gulch WD was a separate CV Contractor until it merged with Kern-Tulare WD. The CV Contractors are located within Fresno, Kings, Tulare, and Kern counties (Figure 3-2) and historically relied on groundwater and local surface water supplies for their water supply.

Beginning in 1975, the first CV Contractors entered into three-party contracts with Reclamation and DWR. Pursuant to these contracts, Reclamation provided water service and DWR provided conveyance of CVP water for the CV Contractors. The terms of those contracts were subsequently extended through a series of one to two-year interim renewal contracts



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

**Figure 3-1 Regional Location**

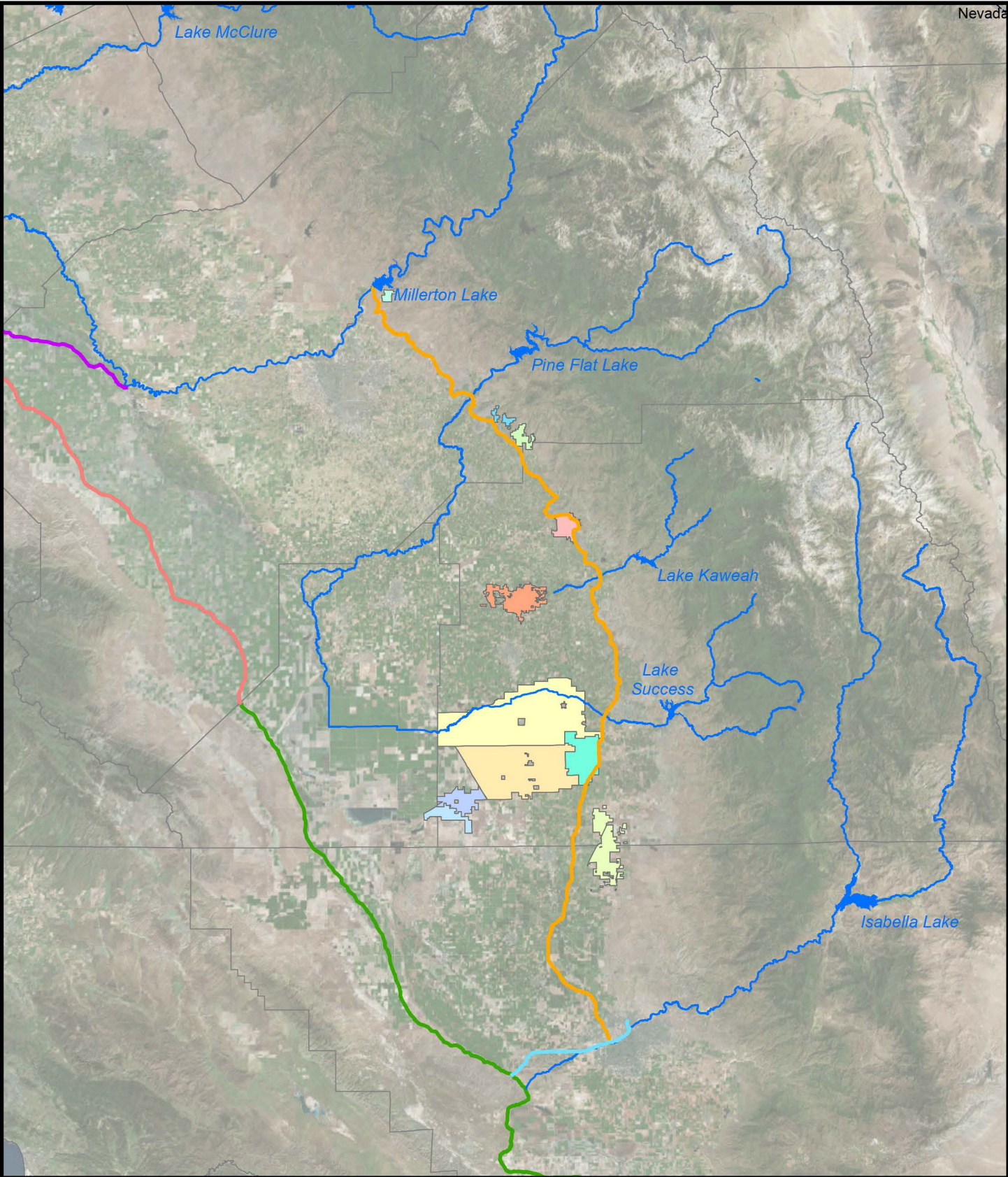


- California Aqueduct
- San Luis Canal
- Delta-Mendota Canal
- Friant-Kern Canal
- Cross Valley Canal
- River
- Reservoir
- County Boundary
- State Boundary
- Consolidated Place of Use



0 Miles 30





Nevada

### CVC Contractors Water User Service Areas



- |                     |   |                                      |                                  |
|---------------------|---|--------------------------------------|----------------------------------|
| California Aqueduct | Alpaugh Irrigation District                     | Kern - Tulare Water District         | Stone Corral Irrigation District |
| San Luis Canal      | Atwell Island Water District                    | Lower Tule River Irrigation District | Tri-Valley Water District        |
| Delta-Mendota Canal | Fresno County Service Area No 34 Brighton Crest | Pixley Irrigation District           | City of Visalia                  |
| Friant-Kern Canal   | Hills Valley Irrigation District                | Sausalito Irrigation District        |                                  |
| Cross Valley Canal  |   |                                      |                                  |
| River               |   |                                      |                                  |



0 Miles 20

(IRCs) pursuant to Section 3404(c) of the CVPIA, beginning March 1, 1996. In 2001, the CV Contractors, Reclamation, and DWR negotiated IRC-5, which includes both the present terms and conditions under which Reclamation has supplied, and DWR has conveyed, CVP water to the CV Contractors. LTRID's IRC-5 is included in Appendix B-3. Subsequent IRCs have all extended the terms and conditions found in IRC-5, including the current IRC-18. LTRID's IRC-18 is included in Appendix B-4.

The CV Contractors' current water supply contracts with Reclamation and DWR provide CVP water and conveyance of that supply through the Aqueduct to the CVC or other points of delivery mutually agreed upon by the parties.

The CV Contractors' CVP water is pumped from the Delta by DWR (providing the pumping facilities) and Reclamation (providing the power supply) and then conveyed using the San Luis Canal and Aqueduct for delivery into the CVC. The CVC has the flexibility to move water between the Aqueduct and the FKC and to deliver water to banking projects along the CVC.

The status and operation of the overall CVP and the water demands of CVP water supply contractors have been described in numerous documents including the CVPIA PEIS and the CVP and SWP Operations and Criteria Plan (OCAP), which is a detailed analysis and explanation of the criteria and procedures for conducting coordinated CVP and SWP operations. Reclamation and DWR conducted endangered species consultations to address the CVP/SWP combined long-term operations leading to the development of biological opinions (BO) on the combined operations of their facilities in 2004. The Project is subject to these operations and requirements.

The CV Contractors have water supply contracts totaling up to 128,300 acre-feet (af) annually (Table 3-1). The CV Contractors' CVP water is delivered by Reclamation to the Delta, whereupon it is diverted and conveyed south by DWR for delivery. The current delivery mechanisms are explained further in Section 3.3, below. For the purposes of this document, the CVP water contracted by Reclamation to be delivered through the CVC (described in Table 3-1) is referred to as CVC Contract Supply.

**Table 3-1**  
**Cross Valley Contractors CVP Contract Supply and Average Annual Deliveries**

<b>CV Contractors</b>	<b>CVC Contract Annual Supply (af)</b>	<b>Average Annual Delivery<sup>5</sup> (af)</b>	<b>Percent Received<sup>5</sup></b>
County of Fresno <sup>1</sup>	3,000	692	23%
Hills Valley Irrigation District	3,346	1,085	23%
Kern-Tulare Water District <sup>2</sup>	53,300	7,954	15%
Lower Tule River Irrigation District <sup>3</sup>	31,102	7,844	25%
Pixley Irrigation District	31,102	7,485	24%
Tri-Valley Water District	1,142	324	28%
County of Tulare <sup>4</sup>	5,308	1,534	29%
<b>Total</b>	<b>128,300</b>	<b>26,918</b>	<b>25%</b>

- <sup>1</sup> County of Fresno includes subcontractor Fresno County Service Area #34.
- <sup>2</sup> Combined Kern-Tulare Water District (40,000 af per year) and Rag Gulch Water District (13,300 af per year).
- <sup>3</sup> Lower Tule River ID, Saucelito ID, Stone Corral ID and City of Lindsay receive CVP water under more than one contract, either as a Friant and/or Cross Valley Contractors or subcontractor.
- <sup>4</sup> County of Tulare includes subcontractors Alpaugh ID, Atwell Island WD, City of Lindsay, Smallwood Vineyards, Hills Valley ID, Saucelito ID, Stone Corral ID, Strathmore Public Utility District, Styrotek, Inc., and City of Visalia
- <sup>5</sup> Includes CVC water supply through transfers/exchanges

### 3.2.2 - CROSS VALLEY CONTRACTORS' WATER USE

- **County of Fresno** has a CV contract for up to 3,000 af of CVP water per year, which it provides to one subcontractor, Fresno County Service Area (CSA) #34. The water is used for M&I uses. After the County of Fresno's CVP water has been exchanged with AEWSO or other agencies, CSA #34 typically diverts water directly from Millerton Lake after its Delta supply has been exchanged for Friant supplies with AEWSO.
- **Hills Valley Irrigation District (HVID)** has a CV contract for up to 3,346 af of CVP water per year and distributes the water to agricultural users within the district. The district does not pump groundwater, but individual landowners may have private wells and pump groundwater. Historically, the district has received its allocation of CVP water through exchanges with AEWSO. HVID is also a subcontractor to the County of Tulare under its CVC contract.
- **Kern-Tulare Water District (KTWD)** previously merged with another CV Contractor, Rag Gulch Water District (RGWD), to form a combined district. KTWD now holds two CV contracts, one for up to 40,000 af of CVP water and another for up to 13,300 af of CVP water per year. Aside from these contracts, KTWD receives its water supplies from a separate water service contract with Reclamation for CVP water based on Reclamation's Friant Division allocations, as well as the Kern River, and banking and exchange agreements with other water districts. Individual farmers also operate wells and pump groundwater. KTWD historically uses exchanges and direct delivery to receive CVP water.
- **Lower Tule River Irrigation District (LTRID)** has a CV contract for up to 31,102 af CVP water per year. LTRID also receives its water supplies from a separate water service contract with Reclamation for CVP water based on Reclamation's Friant Division allocations, local surface water from the Tule River, and groundwater. The district does not provide groundwater service, but individual landowners may operate their own wells and pump groundwater. LTRID typically receives its water supply through exchanges of its allocation of CVP water for supplies from other entities, or sells its contract allocation and utilizes the proceeds to purchase water supplies from CVP, SWP, or other sources on the water market.
- **Pixley Irrigation District (PXID)** has a CV contract for up to 31,102 af of CVP water per year. Other water supplies available to PXID include surface water from Deer Creek and groundwater. PXID has a groundwater recharge program that involves direct recharge in Deer Creek and through the canal system. PXID typically receives its water supply through exchanges of its allocation of CVP water for supplies from other entities, or sells its contract allocation and utilizes the proceeds to purchase water supplies from CVP, SWP, or other sources on the water market. Individual farmers also operate wells and pump groundwater.

- **Tri-Valley Water District (TVWD)** has a CV contract for up to 1,142 af of CVP water per year, which it provides to agricultural users within its district. TVWD receives its CVP water directly from the FKC through approximately seven miles of pipeline which is shared and operated by Orange Cove Irrigation District. TVWD does not own or operate any canals, recharge basins, regulating reservoirs, or groundwater extraction facilities. All groundwater pumping is done by landowners who utilize privately owned wells when surface water supplies are insufficient to meet demands; however, due to the proximity to the Sierra Nevada foothills, groundwater supplies are typically inadequate for agricultural uses (Tri-Valley Water District 2016).
- **County of Tulare** has a CV contract for up to 5,308 af of CVP water that is subcontracted to several parties including: Alpaugh ID, Atwell Island WD, City of Lindsay, Hills Valley ID, Frasinnet to Farms LLC, Saucelito ID, Stone Corral ID, Strathmore PUD, Styrotek, Inc., and City of Visalia. CVP water is used for irrigation and M&I demands. Subcontractors to the County of Tulare also pump groundwater, receive CVP water, and/or exchange water with other water agencies.

### **3.2.3 - CROSS VALLEY CONTRACTORS' ALLOCATION**

Each year Reclamation identifies the water allocation for the CVP SOD contractors. The CV Contractors could receive delivery of water in the amount of the difference between the actual SOD CVP water allocation and the amount of water potentially available to SOD contractors, if pumping restrictions in the Delta did not limit exports. Delivery of this water is contingent on the CV Contractors securing means to convey the water without interfering with the legal rights of another CVP contractor or non-CVP contractor. To date, Reclamation has infrequently delivered the supply through CVP facilities to the CV Contractors, primarily because of limited conveyance capacity.

## **3.3 - Project Background**

DWR and Reclamation have built water conservation and water delivery facilities in the Central Valley in order to deliver water supplies to affected water rights holders as well as project contractors (Figure 1-3). DWR and Reclamation's water rights are conditioned by the State Water Resources Control Board (SWRCB) to protect the beneficial uses of water within each respective project and jointly for the protection of beneficial uses in the Sacramento Valley and the Sacramento-San Joaquin Delta Estuary. DWR and Reclamation coordinate the operation of the CVP and SWP to meet the joint water right requirements in the Delta. The Project is subject to these operations and requirements.

### **3.3.1 - SACRAMENTO/SAN JOAQUIN DELTA**

The CV Contractors water is delivered to the Delta by Reclamation before being conveyed through the Banks Pumping Plant. SWRCB Water Right Decision D-1641 (Revised March 15, 2000) amended Reclamation's water rights to expressly include pumping and diversion of CVP water "to serve the Cross Valley Canal contractors" from the SWP's Banks Pumping Plant, subject to DWR's permission. (Water Right Decision D-1641 at 150; see also Addendum to Coordinated Operations Agreement (December 12, 2018) Section 10[b].)

The ability to pump the CV Contractor water is controlled by available capacity at Banks Pumping Plant, available capacity in the Aqueduct, and the regulatory conditions in the Delta. Since the CV Contractors' contracts were first approved in the mid-1970s the regulatory environment in the Delta has changed. Standards specifying pumping rates, delta outflow, reverse flow in the Delta, and other parameters have been implemented through SWRCB rulings, biological opinions, and SWP operating criteria. All of these conditions have resulted in changes in the timing and magnitude of diversions at the Banks Pumping Plant, and thereby affect the provision of water for the CV Contractors under current practices. The Project is and will remain subject to these standards and conditions.

### **3.3.2 - CENTRAL VALLEY PROJECT WATER FACILITIES**

#### **Delta-Mendota Canal (DMC)**

Water is conveyed from the Delta by Reclamation at the Jones Pumping Plant into the Delta Mendota Canal (DMC). The DMC travels south to a point adjacent to the O'Neill Forebay, where it can be pumped into O'Neill Forebay and San Luis Reservoir. The DMC continues south and terminates at the Mendota Pool on the San Joaquin River. Reclamation delivers water along the DMC to certain CVP water contractors (Figure 3-2). Water conveyed in the DMC serves lands within the CVP SOD Place of Use.

#### **Millerton Lake**

Millerton Lake is part of the Friant Division of the CVP and is located on the San Joaquin River. Impounded by Friant Dam, Millerton Lake has a maximum storage capacity of 520,500 af. Water stored in Millerton Lake supplies the FKC and the Madera Canal, in addition to releases to the San Joaquin River. The FKC starts at the southwest corner of Friant Dam.

The current San Joaquin River Restoration Program (SJRRP) is analyzing flow releases from Millerton Lake to the San Joaquin River for restoration of river function and aquatic habitat and has released an updated 2019 Restoration Allocation and Default Flow Schedule to the Restoration Administrator for the SJRRP (San Joaquin River Restoration Program, 2020).

#### **Friant-Kern Canal**

The FKC conveys water from Millerton Lake on the San Joaquin River south to Kern River near Bakersfield. The FKC is owned by Reclamation but, since October of 1986, has been operated and maintained by the FWA as Reclamation's "non-federal operating entity."

Water deliveries via the FKC are made pursuant to water service and repayment contracts and based on hydrologic supply and district demands. Water is typically delivered south by gravity flow from Millerton Lake. Alternatively, water may be delivered to contractors from other sources such as from the Delta and pumped into the FKC. Such deliveries frequently introduce water into the FKC near its southern end at its intertie with the CVC and may then be pumped from lower reaches of the FKC to its upper reaches. This upstream flow ("reverse flow") is accomplished by operating pumps at selected checks to lift the water from the

downstream side of the check, over the check, to the upstream side of the check. One such reach is created by the Shafter Check Structure at FKC Milepost 137.2, where a permanent 30 cubic feet per second (“cfs”) pump is located and where FWA installs other temporary pumps as needed. FWA operates all such pumps at the Shafter Check Structure. Other similar reaches further north are created by the Poso Check and the Lake Woollomes Check, where FWA installs temporary pumps as conditions warrant to facilitate delivery of water further north in the FKC. If all three checks are operated in reverse, water can be conveyed north from the CVC to KTWD, the southern-most CV Contractor.

Reverse flow operation of the FKC, as discussed above and where water is introduced to the FKC at its southern end from the CVC and other sources and pumped north, is part of FWA’s Canal operations procedures, which provide:

*“Reverse flow*

*Water contractors with facilities that tie into the FKC within the reaches upstream of the Kern Check can introduce supplemental flows into the system and reverse flow these deliveries upstream as far as Lake Woollomes. Historical introductions have been by means of siphons in the Kern Check along with pumps within the Shafter and Poso Checks. The addition of the bi-directional intertie with the Cross Valley Canal allows water to be directly introduced into the FKC within the Kern Check. This intertie was installed and approved under USBR guidelines. All water coming into the FKC is metered for flow rate accuracy and totalized for quantity. Reverse flow introductions in the FKC are either diverted to contractors within the pumped-in reach or pumped over the upstream check structure in order to satisfy demand. Reverse flow pump installations may be installed at the Shafter, Poso, and Reservoir Check Structures to further reverse flow any water in excess of each check’s demands. All flows introduced into the FKC are coordinated through the FWA Water Operations Department, USBR, introducing contractors, and receiving contractors.”*

Reclamation’s water deliveries in the region are further made to its contractors pursuant to the terms of the (1) *The United States Department of the Interior Bureau of Reclamation South-Central California Area Office Operational Guidelines for Water Service Friant Division Central Valley Project*, (2) *CVC Operations Manual*, and (3) *the Friant Operational Guidelines*. The Project is and will remain subject to these standards and conditions.

This reverse flow operation has been historically, and presently is, used to move CVP water from the CVC to Friant Division contractors or some of the CV Contractors, such as KTWD. The long-standing practice introduces CVP water from the CVC with a typically higher total dissolved solids<sup>1</sup> concentration than CVP water from Millerton, into the FKC. This water

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<sup>1</sup> CVP water that moves through the Delta may include, among other things, sodium, chloride, and boron at relatively higher levels than CVP water that moves through Millerton. As outlined in the Water Quality Policy and discussed in more detail below, such water is analyzed in the FKC for “for Title 22 and many other constituents.”

quality concern is addressed with respect to AEWS in Article 9(c) of the CVC Operating Agreement<sup>2</sup>, to which AEWS is a party, which provides:

*“Use of the Intertie for delivery of water from the Cross Valley Canal to the Friant-Kern Canal may result in adverse water quality impacts to Arvin-Edison. Due consideration for such impacts shall be negotiated between those Participants desiring to introduce water into the Friant-Kern Canal and Arvin-Edison; provided, however, no such consideration shall be due with respect to any water provided under existing contracts and renewals thereof between Rag Gulch, Kern-Tulare and the Fresno-Tulare Group and the United States for providing for deliveries from the California Delta or Rag Gulch or Kern-Tulare supplies delivered pursuant to federal approval.”*

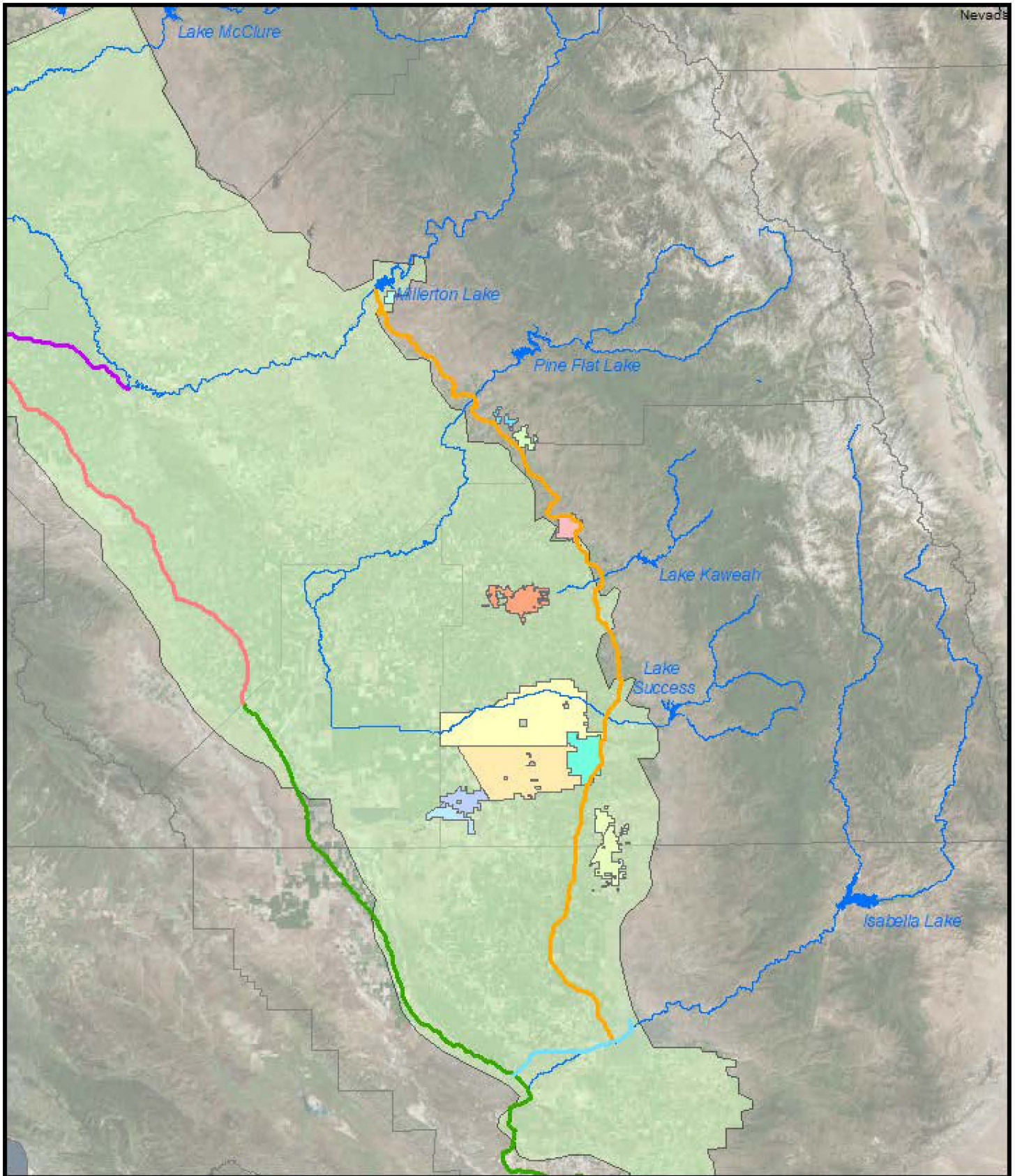
Further, Reclamation’s Policy for Accepting Non-Project Water into the Friant-Kern and Madera Canals, dated March 7, 2008 (“Water Quality Policy”), governs water quality related to the introduction of all water into the FKC. The policy’s purpose is “to ensure that water quality is protected” in the FKC. Pursuant to the policy there are various, different water quality requirements depending on the source and quality of water. Pursuant to the terms of the Water Quality Policy, the delivery of CVP water into the FKC is not subject to the Water Quality Policy, as the policy only applies to non-project water. Project water—from whatever part of the CVP including from the Delta—requires no additional evaluation beyond that already performed under the policy. Under the Water Quality Policy, “water pumped from the California Aqueduct and Cross Valley Canal into the lower Friant-Kern Canal” is an example of water that does not require additional water quality analysis. Under the Water Quality Policy, the reason that no additional water quality analysis over that which is already conducted for Project water is required in order to convey such water through the Friant-Kern Canal is “because it is physically the same as Project water.” The Project is and will remain subject to all applicable water quality standards and conditions.

### **3.3.3 - STATE WATER PROJECT WATER FACILITIES**

Water is conveyed from the Delta by the State of California using SWP facilities. Diversion occurs at the Clifton Court Forebay, then flows through the Banks Pumping Plant into the Aqueduct. The Aqueduct is a feature of the SWP and is operated by DWR. The first portion of the Aqueduct extends to O’Neill Forebay, where water can be pumped into San Luis Reservoir, which is a joint-use facility shared between DWR and Reclamation. The segment of the Aqueduct between the O’Neill Forebay and the State Highway 41 Bridge near Kettleman City, known as the San Luis Canal, is also a joint-use facility (see Figure 3-3). Water conveyed in this section are to both CVP and SWP contractors. The SWP facilities continues south from the State Highway 41 Bridge to storage and distribution facilities in Kings and Kern counties and south to the greater Southern California area.

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<sup>2</sup> Contract Among Kern County Water Agency and Various Parties for the Operation of the Cross Valley Canal Extension and Intertie.



**Figure 3-3 Service Areas South-of-Delta**



- |                     |  |                                    |                                 |
|---------------------|--|------------------------------------|---------------------------------|
| California Aqueduct | Federal Consolidated Place of Use                | Hills Valley Irrigation District   | Sequoia Irrigation District     |
| San Luis Canal      | Alameda Irrigation District                      | Kern - Tulare Water District       | Stone Canal Irrigation District |
| Delta-Mendota Canal | Alameda Water District                           | Lower Tuolumne Irrigation District | In-Valley Water District        |
| Friant-Kern Canal   | Fresno County Service Area No. 34 Brighton Canal | Policy Irrigation District         | City of Visalia                 |
| Cross Valley Canal  |  |                                    |                                 |
| River               |  |                                    |                                 |



0 Miles 20



### 3.3.4 - CROSS VALLEY CANAL

The CVC improves the management of water supplies in the central and lower SJV. Water supply originating north of the Delta is conveyed in the Aqueduct to the headworks of the CVC, where it can be conveyed through the CVC into the FKC for direct deliveries. More commonly, water is delivered to the CV Contractors via water exchanges or transfers, typically with AEWS and KCWA.

The CVC was constructed in the mid-1970s by the CV Contractors, Improvement District No. 4 of KCWA, Cawelo WD, and Rosedale-Rio Bravo Water Storage District. The CVC capacity was expanded by KCWA, AEWS, and Kern Delta WD in 2008. The CVC is 17 miles long and is located in the southern SJV where it connects the Aqueduct with the FKC (see Figure 3-2). The connection with the Aqueduct is south of the town of Tupman in Reach 12E of the Aqueduct and extends east to the FKC and beyond. Water in the canal can flow in either the east or west direction. To flow east from the Aqueduct to the FKC, water is lifted through a series of six pump stations. Water flows west in the canal by gravity. Five 24-inch pipelines connect the CVC to the FKC were installed by the KTWD. Each pipe has a capacity of approximately 15 cfs. In 2008, an intertie was constructed between the CVC and the FKC. The CVC/FKC Intertie connects the existing FKC to a pump station and junction box that takes water from the afterbay of CVC pumping plant 6b. About 880 feet (ft) of an 8-foot diameter pipeline was installed parallel to the AEWS Intake Canal to provide up to 500 cfs of flow between the FKC and the CVC, in either direction. As part of the 2008 canal expansion and construction of the CVC/FKC Intertie, a contract for operating the Cross Valley Canal and CVC/FKC Intertie was executed.

The contractors that participated in the construction and have capacity rights in the CVC are referred to as the Cross Valley Participants. The Cross Valley Participants are responsible for the operations and maintenance costs of the CVC. Each agency identified in Table 3-2 has capacity in the CVC and can assign other Cross Valley Participants the ability to use their capacity and have the right to use any unused capacity in the CVC. These contractors also have capacity in the CVC/FKC Intertie.

**Table 3-2**  
**Cross Valley Canal Participants Share of CVC and Intertie Capacity<sup>1</sup>**

<b>Agency</b>	<b>CVC Capacity (% of Total)</b>	<b>CVC/FKC Intertie Capacity (% of Total)</b>
Cross Valley Contractors	33.9	33.9
Arvin Edison Water Storage District	8.6	8.6
Cawelo Water District	13.0	13.0
Kern County Water Agency	28.7	28.7
Rosedale-Rio Bravo	0.5	0.5
Kern Delta Water District	15.2	15.2
<b>Total Capacity</b>	<b>100</b>	<b>100</b>

<sup>1</sup> Capacity listed for CVC Reach 3. Total capacity for Reaches 1 and 2 are 1,422 cfs and 1,343 cfs, respectively.

### **3.3.5 - CV CONTRACTOR WATER EXCHANGES/CONVEYANCE**

The CV Contractors are located on the FKC. CV Contractors are generally unable to take direct delivery of their CV contract water except for KTWD, the southern-most CV Contractor on the FKC.

The CV Contractors may receive their CV contract water through a series of exchanges and/or transfers with other agencies. For the purpose of this document, an agency participating in an exchange with a CV Contractor is referred to as the Exchange Entity. The range of potential Exchange Entities includes those agencies in the CVP Place of Use and SWP Place of Use (Figure 3-4). The types of exchanges are varied and may involve one or more agencies. The exchange mechanisms currently used, will continue to be used once the long-term conveyance contracts are renewed. An exchange may be balanced or unbalanced (up to 2:1 average exchange ratio over a 10-year period) in volume or the exchange may be at different times of the year.

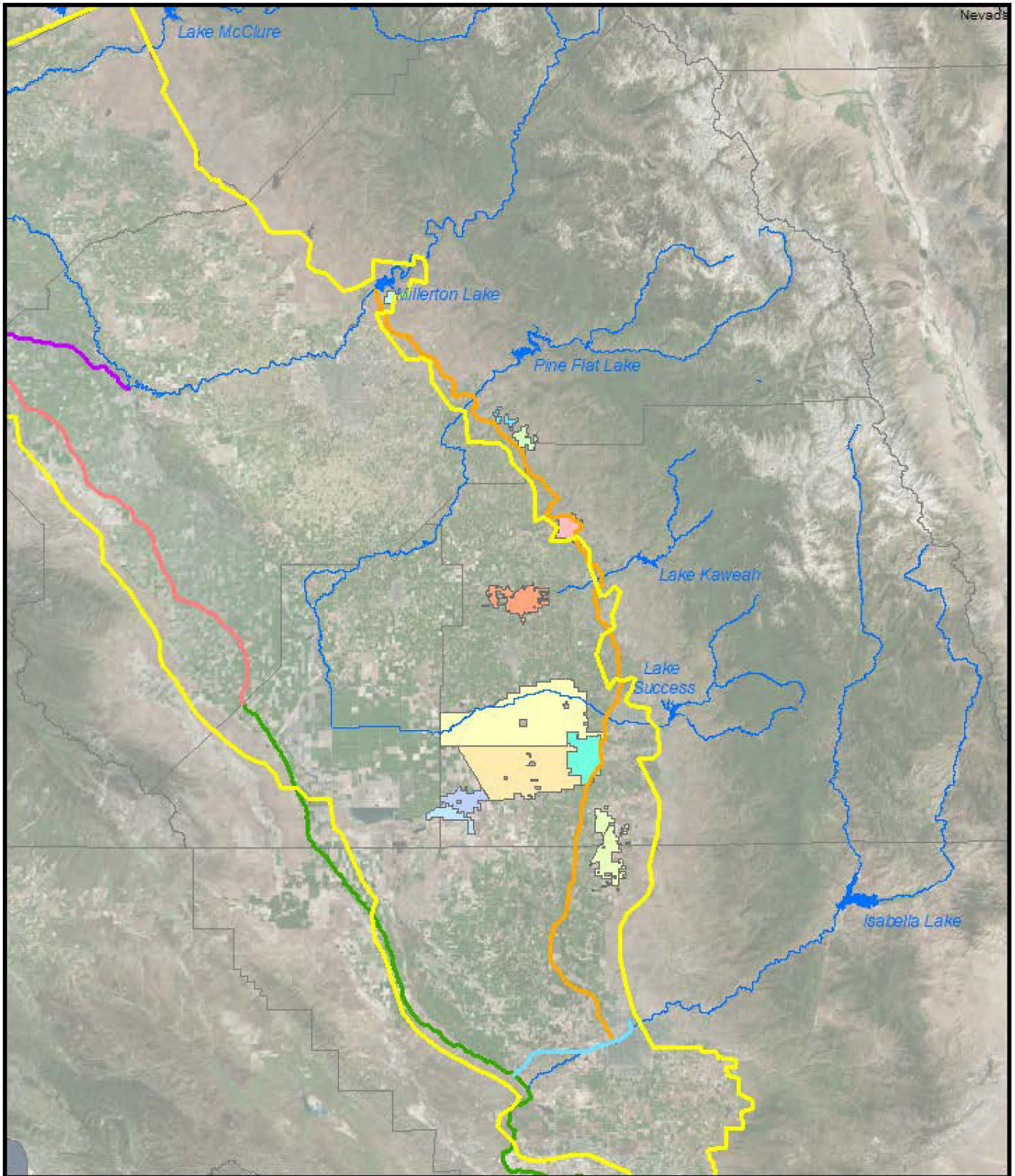
Exchange agreements have been negotiated between CV Contractors individually or collectively with AEWSD or other Exchange Entities, which is authorized in the existing CV Contractors water supply contracts and may continue to use SWP facilities under the proposed Project. In the earlier year(s), AEWSD would take delivery of the CV contract water and in return AEWSD would make CVP Friant water available for the CV Contractor on the Friant-Kern Canal. CV Contractors then began reaching out to other non-CVP contractors. The non-CVP contractor would make water available to the CV Contractor and in return, the CV Contractor would make their CV contract water available to the non-CVP contractor.

Exchange agreements have been negotiated between CV Contractors individually or collectively with other water agencies. Such exchanges are authorized in the existing CV Contractor's water supply contracts and may continue to use SWP facilities under the proposed Project for the exchanges. The water provided to the Exchange Entity by the CV Contractors is typically used within the Exchange Entity boundaries while the water released by the Exchange Entity is used in the CV Contractor's service area as part of the existing annual CV Contractor's supply. For example, CV exchange water is CVP water delivered to AEWSD through the CVC and an amount of AEWSD CVP water is delivered to the CV Contractors through the FKC.

#### ***Delivery of CV Contractor Water to the Exchange Entity***

Reclamation makes available CVP water at a location where it can be diverted or exchanged for CV contract water. The locations include:

- The Delta
- O'Neill Forebay
- CVP share of San Luis Reservoir
- Millerton Lake



Nevada

**Figure 3-4 Potential Exchange Partners within the CVP Place of Use**



- |                       |  |                                       |                                 |
|-----------------------|--|---------------------------------------|---------------------------------|
| California Aqueduct   | Considered Place of Use                          | Mills Valley Irrigation District      | Seawick Irrigation District     |
| San Luis Canal        | Albany Irrigation District                       | Kern-Tulare Water District            | Stone Canal Irrigation District |
| Delta-Mendocino Canal | Albany Island Water District                     | Lower Tuare River Irrigation District | In-Valley Water District        |
| Furnace-Kern Canal    | Fresno County Service Area No. 34 Brighton Canal | Policy Irrigation District            | City of Visalia                 |
| Cross Valley Canal    |  |                                       |                                 |
| River                 |  |                                       |                                 |



0 Miles 20

The CVP water may be available through surplus water (e.g. Section 215 water is defined under Section 215 of the Reclamation Reform Act of 1982 (RRA) as unstorable irrigation water to be released due to flood control criteria or unmanaged flood flows), recirculation water originating from the San Joaquin River (including pursuant to the San Joaquin River Restoration Project), CVP water transferred from another CVP contractor, or water banked, transferred, or exchanged with another water agency. The delivery of water from the Delta to the Exchange Entity depends on the availability of capacity in federal or State facilities. As part of the delivery, Reclamation provides power at the needed facilities for pumping of the exchange water. The description of delivery mechanisms is meant to bracket the range of delivery options considered as part of this proposed Project. If an option is clearly impractical, it was eliminated from further consideration. The possible delivery mechanisms are as follows.

#### ***DIVERSION AT THE JONES PUMPING PLANT***

Reclamation would divert the CV contract water from Jones Pumping Plant into the DMC and the water would be conveyed for delivery to:

- **CVP SOD contractor(s)** on the DMC, Mendota Pool or pumped into O'Neill Forebay (ONF) federal share (CVP) for delivery to CVP SOD contractor(s) within the San Luis Canal, or then pumped into the San Luis Reservoir (SNL) federal share (CVP) for delivery to CVP SOD contractor(s) within the San Felipe Division.
- **Non-CVP contractor(s)** below the end of the San Luis Canal, Reclamation would exchange the CV contract water from Reclamation's share (CVP) of ONF to DWR share (SWP) of ONF for DWR to convey the CV contract water through Dos Amigos (with federal power) to the point of delivery, unless the CV contract water is being conveyed under a State contractor's contract (Article 55), the DWR would provide State power at Dos Amigos.
- **Storage in federal share (CVP) of SNL**, Reclamation would pump the CV contract water into ONF federal share (CVP) and into federal share (CVP) SNL with federal power.
- **Storage in State share (SWP) of SNL**, Reclamation would pump the CV contract water into ONF federal share (CVP) with federal power then exchange the CV contract water from Reclamation's share (CVP) of ONF to DWR share (SWP) of ONF for DWR to pump the CV contract water into SNL with State power.

#### ***DIVERSION AT THE BANKS PUMPING PLANT***

DWR would divert the CV contract water at the Banks Pumping Plant (with federal power) and the CV contract water would flow into the State share (SWP) of ONF for delivery to either:

- **CVP SOD contractor(s)** on the DMC, Mendota Pool, San Luis Canal, or San Felipe Division, where DWR would exchange the CV contract water from DWR's share (SWP) of ONF to Reclamation's share (CVP) of ONF. Reclamation would then deliver the CV contract water to the CVP SOD contractor(s) using federal power if applicable.

- **SWP contractor(s)**, DWR would convey the CV contract water through Dos Amigos (with federal power) to the point of delivery.
- **CVC and/or AEWSD turnouts on the California Aqueduct**, DWR would convey the CV contract water through Dos Amigos (with federal power) to the CVC and/or AEWSD turnout below the end of the Joint Use Facilities.
- **Storage in federal share (CVP) of SNL**, DWR would exchange the CV contract water from DWR's share (SWP) of ONF to Reclamation's share (CVP) of ONF for Reclamation to pump the CV contract water into federal share (CVP) of SNL with federal power.
- **Storage in State share (SWP) of SNL**, DWR would pump the CV contract water into SNL with State power.

#### ***DELIVERY THROUGH THE CROSS VALLEY CANAL***

As mentioned above, DWR can convey the water to the CVC turnout on the Aqueduct. As operator of the CVC, KCWA then conveys water in the CVC to either:

- CVP contractor turnout,
- SWP contractor turnout,
- FKC through the CVC/FKC Intertie or KTWD's pipelines, or
- Groundwater storage projects along the CVC (banked water).

#### ***DELIVERY THROUGH THE FRIANT-KERN CANAL***

If water is delivered to the FKC through the CVC/FKC Intertie, the FWA would convey and deliver the water to a Friant contractor. The point of delivery is:

- Turnout along the FKC,
- KTWD (a CV Contractor), or
- Groundwater storage projects along the FKC (banked water).

Water can be conveyed north in the FKC through the use of check structures and pumps operated by FWA. This practice has been used in the past but depends on the current demands along the FKC. In dry years when water deliveries in the FKC are low, this mechanism can be used. The practical geographic limit of this delivery mechanism is the KTWD, about 30 miles north of the CVC/FKC Intertie.

Water is also directly delivered from Millerton Lake to the County of Fresno.

#### ***Return of Water from the Exchange Entity***

After CV contract water has been delivered to the Exchange Entity there has to be an exchange (return) from the Exchange Entity to the CV Contractor. The return of CV Contractor exchange water can occur from several sources as described below. CVP water is tracked from its origin to its final disposition (end use) and does not lose its federal characteristics under California water rights permits. CV water supplies would be used in

compliance with the applicable water rights permits and would conform to the applicable purpose and place-of-use of the associated water rights permit.

***RETURN WATER FROM MILLERTON LAKE (FRIANT DIVISION) AND DELIVERED THROUGH THE FKC***

The CV Contractor would make available CV contract water from the Delta or San Luis Reservoir to a CVP contractor in exchange for CVP Friant Division water from the FKC. Water delivered to the CV Contractor is accounted for as CV contract water subject to Reclamation law, as applicable. CV contract water delivered to the CVP contractor is accounted for as CVP water from the FKC subject to Reclamation law, where applicable. This option has been used previously involving AEWS (a Friant Division contractor) and others.

***RETURN FROM A CVP CONTRACTOR AND DELIVERED THROUGH THE FKC (3 PARTY)***

The CV Contractor would deliver CV contract water from the Delta or San Luis Reservoir to a CVP contractor in exchange for CVP Friant Division or non-CVP supplies from the FKC. This mechanism could involve three groups: the CV Contractor, the CVP contractor, and the Friant Division contractor. Water delivered to the CV Contractor is accounted for as CV contract water subject to Reclamation law, as applicable. CV contract water delivered to the Exchange Entity is accounted for as Friant CVP or non-CVP water subject to Reclamation law, where applicable. This option has been used previously involving Westlands Water District (a CVP contractor) and Fresno Irrigation District (a Friant Division contractor).

***RETURN WATER FROM SWP CONTRACTOR AND DELIVERED THROUGH THE CVC.***

DWR would deliver CV contract water from the Delta or San Luis Reservoir to an SWP contractor in exchange for SWP water from the Delta or San Luis Reservoir. DWR would then convey the SWP water to the CVC for delivery to the CV Contractor. Water delivered to the CV Contractor is accounted for as CV contract water subject to federal law, as applicable. CV contract water delivered to the SWP contractor is accounted for as non-project water not subject to Reclamation law. This option has been used previously involving KCWA (a SWP contractor).

***RETURN FROM A NON-CVP AGENCY***

The CV Contractor would deliver CV contract water from the Delta or San Luis Reservoir to the non-CVP agency. The non-CVP agency would deliver non-CVP contract water (from pre-1914 water rights holders) to a Friant Division contractor. Then, the Friant Division contractor would deliver CVP water through the FKC to the CV Contractor. This mechanism involves three groups: the CV Contractor, the non-CVP agency, and the Friant Division contractor. Water delivered to the CV Contractor is accounted for as CV contract water subject to Reclamation law, as applicable. CVC contract water delivered to the non-CVP agency is accounted for as non-project (non-CVC contract) water not subject to Reclamation law. This option has been used previously involving the TLBWSD (a non-CVP contractor) and LTRID (a Friant Division contractor).

### ***Timing of Exchanges***

The difference in timing between when CV contract water is available in the Delta and when it is needed in the districts or counties. CV Contractors' CVP water is delivered to SWP facilities when an opportunity exists for DWR to convey this water. This opportunity is often outside of the growing season when the water is not needed for crops in the CV Contractors' service areas. In these cases, the CV Contractors could enter into exchange agreements with an exchange partner that is able to take the water at the time it is available. Later during the growing season, an amount of water would be returned to the CV Contractor. The amount returned to the CV Contractor would be less than the amount delivered to the exchange partner to compensate the partner for the service of providing this water to the CV Contractor at a time it is needed. Historically, the Exchange Entity puts the exchanged CVP water to beneficial use when the water is available, and water can be delivered to the CV Contractor during the same year to meet the CV Contractor's delivery requirements. There is also the option to store the water for longer periods of time in the San Luis Reservoir (CVP) or at a groundwater bank. With such a storage system, CVP water could be diverted at one period of time, then stored, and delivered to the CV Contractor at a later point in time. Temporary or long-term storage is often an element of water exchanges.

### ***3.4 - Project Objectives***

CEQA Guidelines require that the EIR project description include a statement of the objectives of the proposed Project. The objectives of the CV Contractors' current water supply and conveyance contracts are:

- Avoid long-term overdraft by achieving a balanced groundwater budget;
- Maintain a diversified water supply, sufficient to supply water for all uses, even during supply shortages;
- Integrate groundwater management with use of CVP and other surface water supplies as available;
- Make use of current conveyance and distribution systems and facilities to fully utilize all water supplies;
- Avoid or correct groundwater levels that are too low to support existing wells;
- Maximize cropland preservation; and
- Maximize the efficiency of delivery, conveyance, and use of CVP water through direct delivery and exchanges of CVP water.

The primary objective of the proposed Project is to continue each of these objectives, by allowing CV Contractors to continue receiving CVP water in the manner consistent with historical practices.

### ***3.5 - Proposed Project***

The proposed Project includes two components for each CV Contractor:

- The approval and execution of a contract with Reclamation that converts, pursuant to the WIIN Act, the CV Contractor's existing water supply contract for CVP water to a repayment contract authorizing prepayment of outstanding CVP construction costs; and
- The approval and execution of a contract with Reclamation and DWR that renews and updates the terms of an existing contract for the conveyance of the CV Contractor's CVP water until 2035.

The proposed conversion of the existing CVP contracts under the WIIN Act, and renewal and updating the conveyance provisions of the existing contracts into separate conveyance contracts, will allow the CV Contractors to continue receiving CVP water in the manner consistent with current and historical practices.

### **3.5.1 - PROJECT COMPONENTS**

There are numerous regulatory constraints in the Delta that control the timing and quantity of water that is pumped through CVP and SWP facilities. These constraints have changed significantly since the initial three-party contracts were signed in the mid-1970s. The Project will operate under the current and future pumping and related constraints including:

- Delta Outflow requirements,
- X2 location criteria,
- Export pumping rates,
- Operations criteria for the federal and State pumps, and
- Fish "take" numbers.

The term of the proposed conveyance contract extends to February 28, 2035. The proposed conveyance contract, accounting for pumping constraints, allows DWR to continue to convey water through unused capacity in SWP facilities for the CV Contractors.

The proposed Project assumes that annually up to the full aggregate contract quantity of all CV Contractors' contracts, up to 128,300 acre-feet (af), will continue to be conveyed by DWR through SWP facilities, when conveyance capacity and CVP water supply are available. The CVP water is provided to CV Contractors through either direct delivery (into the FKC using the CVC/FKC Intertie, then using the FKC Check Structures to move the water upstream to CV Contractors) or exchange agreements negotiated by the CV Contractors. The Project would enable continued future deliveries of CVP water in the manner consistent with current and historical practices.

### **3.6 - Entitlements Required**

LTRID is the Lead Agency for the proposed Project, consistent with CEQA Guidelines Section 15051(b). This EIR will be used by LTRID to both evaluate the potential environmental impacts that could result from implementation of the Project and develop changes in the proposed Project and/or adopt mitigation measures which would address those impacts.



The LTRID Board of Directors will consider approval of the Project after certification of the Final EIR. Pursuant to CEQA Guidelines Section 15093, the decision-makers must “*balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered ‘acceptable.’*”

If the LTRID Board of Directors, as Lead Agency, approves the proposed Project and significant, unavoidable environmental impacts have been documented, a Statement of Overriding Considerations must be written, which shall state the specific reasons to support the approval based on the Final EIR and/or other information in the record.

Implementation of the proposed Project would require the following regulatory and/or legislative actions by the LTRID Board:

- Certify the Final EIR;
- Consider and adopt Findings and a Statement of Overriding Considerations, as necessary; and
- Consider and adopt a Mitigation Monitoring and Reporting Program, as necessary.

### **3.7 - Cumulative Projects**

CEQA requires that an EIR evaluate cumulative impacts. Cumulative impacts are the project’s impacts combined with the impacts of other related past, present and reasonably foreseeable future projects. As set forth in the CEQA Guidelines, the discussion of cumulative impacts must reflect the severity of the impacts, as well as the likelihood of their occurrence; however, the discussion need not be as detailed as the discussion of environmental impacts attributable to the project alone. As stated in CEQA, Public Resources Code, Section 21083(b) (2), “a project may have a significant effect on the environment if the possible effects of a project are individually limited but cumulatively considerable.”

According to the CEQA Guidelines:

Cumulative impacts refer to two or more individual effects, which, when considered together, are considerable and which compound or increase other environmental impacts.

- The individual effects may be changes resulting from a single project or a number of separate projects.
- The cumulative impact from several projects is the change in the environment, which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time (CEQA Guidelines Section 15355).

In addition, as stated in the CEQA Guidelines, it should be noted that:

The mere existence of significant cumulative impacts caused by other projects alone shall not constitute substantial evidence that the proposed Project's incremental effects are cumulatively considerable (CEQA Guidelines Section 15064[H][4]).

Cumulative impact discussions for each environmental topic area are provided at the end of each technical analysis contained within Chapter 4, under *Impacts and Mitigation Measures*. The cumulative impacts discussions explain the geographic scope of the area affected by each cumulative effect (e.g., immediate project vicinity, watershed, or air basin). The geographic area considered for each cumulative impact depends upon the impact that is being analyzed. For example, in assessing aesthetic impacts, the pertinent geographic study area is the vicinity of the areas of new development under the proposed plan from which the new development can be publicly viewed and may contribute to a significant cumulative visual effect. In assessing macro-scale air quality impacts, on the other hand, all development within the air basin contributes to regional emissions of criteria pollutants, and basin-wide projections of emissions are the best tool for determining the cumulative effect.

Section 15130 of the CEQA Guidelines permits two different methodologies for completion of the cumulative impact analysis:

- The 'list' approach permits the use of a list of past, present, and probable future projects producing related or cumulative impacts, including projects both within and outside the project boundary; and
- The 'projections' approach allows the use of a summary of projections contained in an adopted plan or related planning document, such as a regional transportation plan, or in an EIR prepared for such a plan. The projections may be supplemented with additional information such as regional modeling.

## **CHAPTER 4 - IMPACTS ANALYSIS**

## **4.1 - Biological Resources**

### **4.1.1 - INTRODUCTION**

This section of the Draft EIR describes impacts to biological resources that would result from implementation of the proposed Project. The following discussion addresses existing environmental conditions in the affected area, identifies and analyzes potential environmental impacts of the Project in the context of CEQA and other laws and regulations applicable to biological and aquatic resources, and recommends measures to avoid and minimize significant impacts anticipated from the Project implementation, if needed.

### **4.1.2 - ENVIRONMENTAL SETTING**

The environmental setting includes the point of diversion or rediversion for the CV Contractors' Water Supply (the Delta), the general region across which water is conveyed from the Delta (the SJV), the facilities by which water is delivered to an Exchange Entity, and facilities by which water is conveyed from the Exchange Entity to the CV Contractor.

#### **Aquatic Habitat**

##### **SACRAMENTO-SAN JOAQUIN DELTA**

The Delta lies near the confluence of the Sacramento and San Joaquin rivers between the towns of Hood, Vernalis, and Martinez. The Delta is the transition zone between freshwater river habitats of the Central Valley rivers and the successively more saline habitats of Suisun, San Pablo, and San Francisco bays. These habitats are affected by the tides, which cause diurnal changes in flow patterns and water quality, as well as river outflow, which cause more seasonal changes in habitat. The Delta has been substantially modified from its historic condition by levees, agriculture, toxic contaminants from municipal, industrial, and agricultural sources, and water diversions. The estuary is home to a diverse array of native and introduced species, some of which reside in the estuary throughout the year, and others that use the estuary seasonally.

The fish fauna that currently characterizes the Delta (native and non-native species) include planktivores such as delta and longfin smelt, threadfin shad (*Dorosoma petenense*), juvenile striped bass (*Morone saxatilis*), American shad (*Alosa sapidissima*), hitch (*Lavinia exilicauda exilicauda*), and inland silversides (*Menidia beryllina*). Small benthic predators include native prickly sculpin (*Cottus asper*), tule perch (*Hysteroecarpus traskii*), starry flounder (*Platichthys stellatus*), juvenile white sturgeon (*Acipenser transmontanus*), juvenile splittail (*Pogonichthys macrolepidotus*), and staghorn sculpin (*Leptocottus armatus*), as well as introduced yellowfin goby (*Acanthogobius flavimanus*), shimofuri goby (*Tridentiger bifasciatus*), bigscale logperch (*Percina macrolepida*), and juvenile catfishes (*Siluriformes*). Bottom-feeding omnivores include common carps (*Cyprinus carpio*), adult splittail (*Pogonichthys macrolepidotus*), and Sacramento sucker (*Catostomus occidentalis*). The most abundant piscivores in the system are striped bass (*Morone saxatilis*), white catfish (*Ameiurus catus*), channel catfish (*Ictalurus punctatus*), and largemouth bass

(*Micropterus salmoides*), which often prey on smaller migratory fishes such as juvenile salmon (*Salmo salar*) and steelhead (*Oncorhynchus mykiss*) (Moyle, 2002).

### **SAN JOAQUIN VALLEY**

The SJV is contained within the Central Valley subprovince of the larger Sacramento-San Joaquin ichthyological province (Moyle, 2002). The subprovince drains the Sacramento and San Joaquin rivers. Aquatic species native to this subprovince have distinct morphology, physiology, and life-history patterns, reflecting an adaptation to a climate characterized by extended droughts as well as massive floods (Moyle, 2002). The climate is characterized by hot, dry summers and cool, damp winters. The rainy season occurs from mid-autumn through spring, with the northern portion receiving greater precipitation than the southern half.

Within the Central Valley, four native fish assemblages are largely distinguished by elevation ranges (from lowest to highest elevation): (1) the deep-bodied assemblage, (2) the pikeminnow-hardhead-sucker assemblage, (3) the California roach assemblage, and (4) the rainbow trout assemblage.

The deep-bodied fish assemblage occurs on the Central Valley floor in habitats that include low-gradient river channels, swamps, sloughs, and long stretches of open water. Native deep-bodied fishes, such as Sacramento perch and tule perch, occupy the stagnant backwaters, while specialized adult cyprinids (hitch, blackfish, and splittail) inhabit the long stretches of open water. Large pike minnows and suckers are also abundant, migrating upstream to spawn in tributaries. Anadromous salmon (i.e., steelhead) and sturgeon pass through this zone on their way upstream to spawn (Moyle, 2002). This domain is now dominated by introduced species including largemouth bass and white and black crappie, bluegill, inland silverside, white catfish and brown and black bullhead, and common carp.

The pikeminnow-hardhead-sucker assemblage occurs just above the valley floor at elevations of 80 to 1,500 ft (Moyle, 2002). This assemblage typically inhabits streams with average summer flows of >300 L/s, with deep, rocky pools and wide shallow riffles. Water quality and habitat complexity is usually high, although some streams may become intermittent during summer, and summer water temperatures may exceed 25 degrees centigrade (°C). Sacramento pikeminnow and Sacramento sucker are generally the most abundant fishes of this assemblage, while hardheads are confined to cooler waters in reaches with deep, rock-bottomed pools.

The California roach assemblage overlaps substantially in elevation with the pikeminnow-hardhead-sucker assemblage, although it does not extend to the lowest elevations (Moyle, 2002). This assemblage is found in small, warm tributaries to larger streams that flow through open foothill woodlands of oak and foothill pine. These streams are typically intermittent during summer, resulting in the formation of stagnant pools that can exceed 30°C during the day. In the winter and spring, these streams are swift and vulnerable to flooding. These streams provide habitat for the California roach, which is capable of withstanding high temperature and low oxygen levels due to its small size.

The rainbow trout assemblage overlaps with the upper elevations of the pikeminnow-hardhead-sucker and California roach assemblage and extends to the highest elevations (Moyle, 2002). These streams are characterized by swift, permanent flows, steep gradients, and cool temperatures. The water is well oxygenated, and cover is abundant. Sculpin, Sacramento sucker, and speckled dace are often part of this assemblage, as well as introduced brook and brown trout, although they generally do not occur at the lower elevations.

### **Vegetation Communities and Terrestrial Wildlife Habitat**

The Project Area traverses areas that are primarily agricultural and grazing lands, although portions of the Project Area parallel the Kern River and are near areas of freshwater marsh or riparian woodlands; the water transfer areas are primarily agricultural. Although all water deliveries would be to agricultural areas, there are patches of native habitat within the boundaries of the CV Contractors' water use service areas, including mixed oak savanna, lower montane blue-oak-foothill pine woodland and savanna, and riparian and wetland.

#### **MIXED OAK SAVANNA**

Mixed oak savanna in the Central Valley of California is typically dominated by valley oak (*Quercus lobata*), but may also include any of several other oak species: interior live oak (*Quercus wislizeni*), coast live oak (*Quercus agrifolia*), or blue oak (*Quercus douglasii*) (NatureServe, 2008). Other trees characteristic of these savannas includes California buckeye (*Aesculus californica*) and California juniper (*Juniperus californica*). The understory is dominated by non-native grasses such as wild oat (*Avena* spp.), various brome grasses (*Bromus diandrus*, *B. hordeaceus*, *B. madritensis* ssp. *rubens*) and Italian ryegrass (*Lolium perenne* ssp. *multiflorum*), as well as, both native and exotic forbs (Holland, R.F., 1986).

#### **LOWER MONTANE BLUE-OAK-FOOTHILL PINE WOODLAND AND SAVANNA**

Lower montane blue-oak-foothill pine woodland and savanna in the CVC Project Area is found along the valley margins and foothills of the Sierra Nevada. This vegetation community consists of open stands of foothill pine (*Pinus sabiniana*), blue oak, interior live oak, valley oak, and California buckeye (NatureServe, 2008). A variety of shrubs may be found in this vegetation community and the understory is dominated by a dense cover of both native and exotic annual species.

#### **RIPARIAN**

Riparian vegetation (valley and foothill riparian) in the CVC Project Area is found along rivers and streams. The strips of riparian vegetation along a stream are frequently a mosaic of stands dominated by riparian shrubs or trees. Dominant trees include cottonwoods (*Populus* spp.), California sycamore (*Platanus californica*), and valley oak (Mayer and Laudenslayer, 1988). Subcanopy trees include white alder (*Alnus rhombifolia*), boxelder (*Acer negundo*), and Oregon ash (*Fraxinus oregana*). The shrub layer may include wild grape

(*Vitis californica*), wild rose (*Rosa* spp.), blackberry (*Rubus* spp.), and willows (*Salix* spp.). The herbaceous layer consists of sedges (*Carex* spp.), rushes (*Juncus* spp.), grasses, Douglas sagewort (*Artemisia douglasii*), and other wetland species.

### **WETLAND**

Wetlands refer to herbaceous wetlands, the equivalent of Fresh Emergent Wetlands (Mayer and Laudenslayer, 1988) or freshwater marsh. These vegetation communities are dominated by sedges, rushes, and grasses on the upper margins and by cattails (*Typha* spp.) and bulrush (*Scirpus* spp.) in the wetter locations.

### **AGRICULTURE**

Agricultural land includes orchards, vineyards, and field crops. Land used exclusively for livestock pasture may be mapped as either agricultural land (pasture) or as annual grassland. Agricultural lands provide limited habitat for wildlife species.

### **Special-Status Biological Resources**

Species occurrence records from the CDFW's California Natural Diversity Database (CNDDDB) and the California Native Plant Society (CNPS) Inventory of Rare and Endangered Plants of California as well as information from the USFWS Information for Planning and Consultation system were reviewed to develop a comprehensive list of sensitive biological resources that may be present in the vicinity of the Project Area USGS 7.5-minute quadrangles. Based on the results of the database inquiries, 283 special-status species are potentially present in the vicinity of the Project Area. A list of these special-status species including 162 plant species and 121 wildlife species is provided in Appendices E and F, respectively. Sixty of these species are federally- or State-listed, proposed for listing, or candidate species, including 25 plant species and 45 wildlife species.

### **SPECIAL-STATUS PLANTS**

The literature and database review identified 162 special-status plant species known or with potential to occur in the vicinity of the Project (see Appendix D). Twenty-five plant species that are federally- or State-listed, proposed for listing, or candidate species are potentially present in the vicinity of the Project Area (see Table 4.1-1). The other 137 species are included in the CNPS database with a California Rare Plant Rank designated by CDFW also have a potential to be present within the Project Area.

**Table 4.1-1**  
**Federally- or State-listed, Proposed, or Candidate Plant Species Potentially Present in the**  
**Project Area or Vicinity**

<b>Common Name</b> <b><i>Scientific Name</i></b>	<b>Status</b>	<b>Critical Habitat in or Near Project Area</b>
Ash-grey paintbrush <i>Castilleja cinerea</i>	FT	No
Bakersfield cactus <i>Opuntia basilaris</i> var. <i>treleasei</i>	FE, SE, 1B.1	No
Bakersfield smallscale <i>Atriplex tularensis</i>	SE, 1A	No
California jewelflower <i>Caulanthus californicus</i>	FE, SE, 1B.1	No
Colusa grass <i>Neostapfia colusana</i>	FT	Yes
Gambel's watercress <i>Rorippa gambellii</i>	FE	No
Greene's tuctoria <i>Tuctoria greenei</i>	FE	No
Hartweg's golden sunburst <i>Pseudobahia bahiifolia</i>	FE, SE, 1B.1	No
Hoover's spurge <i>Euphorbia (Chamaesyce) hooveri</i>	FT, 1B.2	Yes
Keck's checker-mallow <i>Sidalcea keckii</i>	FE	Yes
Kern mallow <i>Eremalche parryi</i> ssp. <i>kernensis</i>	FE, 1B.2	No
Large-flowered fiddleneck <i>Amsinckia grandiflora</i>	FE, 1B.1	No
Mariposa pussypaws <i>Calyptridium pulchellum</i>	FT	No
Nevin's barberry <i>Berberis nevinii</i>	FE	No
Palmate-bracted bird's beak <i>Cordylanthus palmatus</i>	FE	No
San Diego ambrosia <i>Ambrosia pumila</i>	FE	No
San Jacinto Valley crownscale <i>Atriplex coronata</i> var. <i>notatior</i>	FE	No
San Joaquin adobe sunburst <i>Pseudobahia peirsonii</i>	FT, SE, 1B.1	No
San Joaquin Valley Orcutt grass <i>Orcuttia inaequalis</i>	FT, SE, 1B.1	Yes



Common Name <i>Scientific Name</i>	Status	Critical Habitat in or Near Project Area
San Joaquin woollythreads <i>Monolopia congdonii</i>	FE, 1B.2	No
Santa Ana River woolly-star <i>Eriastrum densifolium</i> ssp. <i>sanctorum</i>	FE	No
Slender-horned spineflower <i>Dodecahema leptoceras</i>	FE	No
Spreading navarretia <i>Navarretia fossalis</i>	FT, 1B.1	No
Springville clarkia <i>Clarkia springvillensis</i>	FT, SE, 1B.2	No
Striped adobe-lily <i>Fritillaria striata</i>	ST, 1B.1	No
Succulent (fleshy) owl's-clover <i>Castilleja campestris</i> ssp. <i>succulenta</i>	FT, SE, 1B.2	Yes
Thread-leaved brodiaea <i>Brodiaea filifolia</i>	FT	Yes

SE State-listed as Endangered

ST State-listed as Threatened

FE Federally-listed as Endangered

FT Federally-listed as Threatened

Rare Plant Rank (designated by the California Department of Fish and Wildlife)

1A Plants believed to be extinct in California

1B Plants rare or endangered in California and elsewhere

### **SPECIAL-STATUS WILDLIFE SPECIES**

The literature and database review identified 121 special-status wildlife species known or with potential to occur in the vicinity of the Project (see Appendix D). Forty-five wildlife species that are federally- or State-listed, proposed for listing, or candidate species are potentially present in the vicinity of the Project Area (see Table 4.1-2). The other 76 species are either designated a CDFW Species of Special Concern or they are included in the CDFW's Special Animals List and have no special protection (Appendix D). These species also have a potential to be present within the Project Area.

**Table 4.1-2  
Federally- or State-listed, Proposed, or Candidate Wildlife Species Potentially Present in  
the Project Area or Vicinity**

<b>Common Name</b> <i>Scientific Name</i>	<b>Status</b>	<b>Critical Habitat in or Near Project Area</b>
<b>Invertebrates</b>		
Conservancy fairy shrimp <i>Branchinecta conservatio</i>	FE	Yes
Crotch bumble bee <i>Bombus crotchii</i>	CE	No
Delhi sands flower-loving fly <i>Rhaphiomidas terminatus abdominalis</i>	FE	No
Longhorn fairy shrimp <i>Branchinecta longiantenna</i>	FE	No
Riverside fairy shrimp <i>Streptocephalus woottoni</i>	FE	No
San Bruno elfin butterfly <i>Callophrys mossii bayensis</i>	FE	No
Valley elderberry longhorn beetle <i>Desmocerus californicus dimorphus</i>	FT	No
Vernal pool fairy shrimp <i>Branchinecta lynchi</i>	FT	Yes
Vernal pool tadpole shrimp <i>Lepidurus packardi</i>	FE	Yes
Western bumble bee <i>Bombus occidentalis</i>	CE	No
<b>Fish</b>		
Delta smelt <i>Hypomesus transpacificus</i>	FT, SE	Yes
Eulachon <i>Thaleichthys pacificus</i>	FT	No
Green sturgeon <i>Acipenser medirostris</i>	FT	Yes
Longfin smelt <i>Spirinchus thaleichthys</i>	FC	No
Mohave tui chub <i>Gila bicolor ssp. mohavensis</i>	FE	No
Sacramento River winter-run Chinook salmon <i>Oncorhynchus tshawytscha</i>	FE, SE	Yes
Santa Ana sucker <i>Catostomus santaanae</i>	FT	Yes
Steelhead- Central Valley Distinct Population Segment <i>Oncorhynchus mykiss irideus</i> pop. 11	FT	No

Common Name <i>Scientific Name</i>	Status	Critical Habitat in or Near Project Area
<b>Amphibians</b>		
Arroyo toad <i>Anaxyrus californicus</i>	FE, SSC	Yes
California red-legged frog <i>Rana draytonii</i>	FT, SSC	No
California tiger salamander <i>Ambystoma californiense</i>	FT, ST, WL	Yes
Foothill yellow-legged frog <i>Rana boylei</i>	SE, SSC	No
Sierra Nevada yellow-legged frog <i>Rana sierrae</i>	FE	No
Southern mountain yellow-legged frog <i>Rana muscosa</i>	FE, SE, WL	Yes
Tehachapi slender salamander <i>Batrachoseps stebbinsi</i>	ST	No
Yosemite toad <i>Anaxyrus canorus</i>	FT	No
<b>Reptiles</b>		
Alameda whipsnake (=striped racer) <i>Masticophis lateralis euryxanthus</i>	FT, ST	No
Blunt-nosed leopard lizard <i>Gambelia sila</i>	FE, SE, FP	No
Desert tortoise <i>Gopherus agassizii</i>	FT, ST	Yes
Giant gartersnake <i>Thamnophis gigas</i>	FT, ST	No
Green sea turtle <i>Chelonia mydas</i>	FT	No
<b>Birds</b>		
Bald eagle <i>Haliaeetus leucocephalus</i>	SE, FP	No
Bank swallow <i>Riparia riparia</i>	ST	No
California clapper rail <i>Rallus longirostris obsoletus</i>	FE	No
California condor <i>Gymnogyps californianus</i>	FE, SE, FP	Yes
Coastal California gnatcatcher <i>Poliioptila californica</i>	FT, SSC	Yes
Least Bell's vireo <i>Vireo bellii pusillus</i>	FE, SE	No
Swainson's hawk <i>Buteo swainsoni</i>	ST	No

Common Name <i>Scientific Name</i>	Status	Critical Habitat in or Near Project Area
Tricolored blackbird <i>Agelaius tricolor</i>	ST, SSC	No
Western snowy plover <i>Charadrius nivosus nivosus</i>	FT, SSC	No
Western yellow-billed cuckoo <i>Coccyzus americanus occidentalis</i>	FT, SE	No
Willow flycatcher <i>Empidonax traillii</i> (only <i>E. t. extimus</i> is FE)	FE, SE	Yes
<b>Mammals</b>		
Buena Vista Lake ornate shrew <i>Sorex ornatus relictus</i>	FE, SSC	Yes
Fisher-West Coast Distinct Population Segment <i>Pekania pennanti</i>	FE	No
Fresno kangaroo rat <i>Dipodomys nitratooides exilis</i>	FE, SE	Yes
Giant kangaroo rat <i>Dipodomys ingens</i>	FE, SE	No
Mohave ground squirrel <i>Xerospermophilus mohavensis</i>	ST	No
Nelson's antelope squirrel <i>Ammospermophilus nelsoni</i>	ST	No
Riparian brush rabbit <i>Sylvilagus bachmani riparius</i>	FE	No
Riparian woodrat <i>Neotoma fuscipes riparia</i>	FE	No
San Bernardino Merriam's kangaroo rat <i>Dipodomys merriami parvus</i>	FE	Yes
San Joaquin kit fox <i>Vulpes macrotis mutica</i>	FE, ST	No
Stephens' kangaroo rat <i>Dipodomys stephensi</i>	FE	No
Tipton kangaroo rat <i>Dipodomys nitratooides nitratooides</i>	FE, SE	No

CE	State Candidate Endangered
FP	California Fully Protected
WL	California Watch List
SSC	California Species of Special Concern
SE	State-listed as Endangered
ST	State-listed as Threatened
FC	Federal Candidate for listing
FE	Federally-listed as Endangered
FT	Federally-listed as Threatened

## **HABITAT CONSERVATION PLANS**

Two Habitat Conservation Plans (HCPs) cover the Project: the PG&E San Joaquin Valley Operations and Maintenance HCP and the Metropolitan Bakersfield HCP. The PG&E HCP covers maintenance activities performed on existing infrastructure by PG&E and does not apply to the proposed Project. Compliance with the Metropolitan Bakersfield HCP is required if a grading permit or other approval is warranted for a Project consisting of ground disturbance activities within the HCP permitted area. This Project does not include ground disturbance activities; therefore, the Metropolitan Bakersfield HCP does not apply to this Project.

### **4.1.3 - REGULATORY SETTING**

Biological Resources regulations are addressed through the efforts of various federal, State, and local government agencies. The agencies responsible for regulating biological resources are discussed below. The Project is subject to these regulatory requirements as applicable.

#### **Federal**

##### **FEDERAL ENDANGERED SPECIES ACT OF 1973 (USC, TITLE 16, SECTIONS 1531 - 1543)**

The Federal Endangered Species Act (FESA) and subsequent amendments provide requirements for the conservation of endangered and threatened species and the ecosystems upon which they depend. The USFWS and National Marine Fisheries Service (NMFS) share responsibilities for administering the FESA. The FESA defines species as threatened or endangered and provides regulatory protection for listed species. The FESA provides a program for the conservation and recovery of threatened and endangered species as well as the protection of designated critical habitat that USFWS and NMFS determines is required for the survival and recovery of listed species.

Section 9 lists actions that are prohibited under the FESA. Although “take” of a listed species is generally prohibited, “take” can be permitted when it is incidental to an otherwise legal activity. The FESA defines “take” as “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempt to engage in any such conduct.” “Harm” is defined as an act which actually kills or injures wildlife and includes certain types of significant habitat modification or degradation that results in death or injury to listed species by significantly impairing behavioral patterns related to breeding, feeding, or shelter. “Harass” is defined as actions that create the likelihood of injury to listed species by disrupting normal behavioral patterns related to breeding, feeding, and shelter significantly.

Section 4(a)(3) and (b)(2) of the FESA requires the designation of critical habitat to the maximum extent possible and prudent based on the best available scientific data and after considering the economic impacts of any designations. Critical habitat is defined in section areas within the geographic range of a species that are occupied by individuals of that species and contain the primary constituent elements (physical and biological features) essential to the conservation of the species, thus warranting special management consideration or

protection; and areas outside of the geographic range of a species at the time of listing but that are considered essential to the conservation of the species.

***MIGRATORY BIRD TREATY ACT (USC, TITLE 16, SECTIONS 703 - 711)***

The Migratory Bird Treaty Act (MBTA), first enacted in 1918, is a series of treaties that the United States has with Great Britain (on behalf of Canada), Mexico, Japan, and the former Soviet Union that provide for international migratory bird protection. The MBTA authorizes the Secretary of the Interior to regulate the taking of migratory birds. The Act provides that it shall be unlawful, except as permitted by regulations, “to pursue, take, or kill any migratory bird, or any part, nest or egg of any such bird” (U.S. Code Title 16, Section 703). The MBTA currently includes several hundred species and includes all native birds.

***BALD AND GOLDEN EAGLE PROTECTION ACT OF 1940 (USC, TITLE 16, SECTION 668)***

The Bald and Golden Eagle Protection Act (BGEPA) of 1940 protects bald eagles (*Haliaeetus leucocephalus*) and golden eagle (*Aquila chrysaetos*) by prohibiting the taking, possession, and commerce of these species and established civil penalties for violation of this act. Take of bald and golden eagles includes to “pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb.” To disturb means to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, (1) injury to an eagle, (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior (Federal Register (FR), Volume 72, page 31132; 50 CFR 22.3).

***FEDERAL CLEAN WATER ACT (USC, TITLE 33, SECTIONS 1251 - 1376)***

The Federal Clean Water Act (CWA) provides guidance for the restoration and maintenance of the chemical, physical, and biological integrity of the nation’s waters. Section 402 establishes a permitting system for the discharge of any pollutant (except dredged or fill material) into waters of the U.S. Section 404 establishes a permit program administered by the United States Army Corps of Engineers (USACE) that regulates the discharge of the dredged or fill material into waters of the U.S., including wetlands. The USACE implementing regulations are found in CFR, Title 33, Sections 320 and 330. Guidelines for implementation are referred to as the Section 404(b)(1) Guidelines, which were developed by the United States Environmental Protection Agency (EPA) in conjunction with USACE (40 CFR 230). The guidelines allow the discharge of dredged or fill material into the aquatic system only if there is no practicable alternative that would have less adverse impacts. Section 401 requires that a project applicant that is pursuing a Section 404 permit obtain a State Certification of Water Quality, thereby ensuring that the discharge will comply with local State water quality requirements. The Regional Water Quality Control Board (RWQCB) administers the certification program in California.

## **State**

### ***CALIFORNIA ENVIRONMENTAL QUALITY ACT (CALIFORNIA PUBLIC RESOURCES CODE, SECTION 21000-21178, AND TITLE 14 CCR, SECTION 753, AND CHAPTER 3, SECTIONS 15000 – 15387)***

CEQA is California's broadest environmental law. CEQA helps guide the issuance of discretionary permits and approval for projects. Courts have interpreted CEQA to afford the fullest protection of the environment within the reasonable scope of the statutes. CEQA applies to all discretionary projects proposed to be conducted or approved by a State, county, or city agency, including private projects requiring discretionary government approval.

The purpose of CEQA is to disclose to the public the significant environmental effects of a proposed discretionary project; prevent or minimize damage to the environment through development of project alternatives, mitigation measures, and mitigation monitoring; disclose to the public the agency decision-making process to approve discretionary projects; enhance public participation in the environmental review process; and improve interagency coordination.

CEQA Guidelines Section 15380(b) provides that a species not listed on the federal or State Endangered Species Lists may be considered rare or endangered for purposes of CEQA if the species can be shown to meet certain specified criteria. These criteria have been modeled after the definition in FESA and the section of the California Fish and Game Code dealing with rare or endangered plants or wildlife.

### ***CALIFORNIA ENDANGERED SPECIES ACT (CALIFORNIA FISH AND GAME CODE 2050 ET SEQ.)***

The California Endangered Species Act (CESA) establishes the policy of the State to conserve, protect, restore, and enhance threatened or endangered species and their habitats. The CESA mandates that State agencies should not approve projects that would jeopardize the continued existence of threatened or endangered species if reasonable, and prudent alternatives are available that would avoid jeopardy. For projects that would result in take of a species listed under the CESA, a project proponent would need to obtain a take permit under Section 2081(b). Alternatively, the CDFW has the option of issuing a Consistency Determination (Section 2080.1) for projects that would affect a species listed under both the CESA and the FESA, as long as compliance with the FESA would satisfy the “fully mitigate” standard of CESA, and other applicable conditions.

### ***OTHER CALIFORNIA STATE FISH AND GAME CODE PROVISIONS***

#### ***Sections 1600 through 1616***

Under these sections of the FGC, a project operator is required to notify the CDFW prior to implementing any project that would divert, obstruct, or change the natural flow, bed, channel, or bank of any river, stream, or lake. Pursuant to the California Code of Regulations, a “stream” is defined as a body of water that flows at least periodically, or intermittently,

through a bed or channel having banks and supporting fish or other aquatic life. Altered or artificial watercourses valuable to fish and wildlife may be subject to CDFW jurisdiction. CDFW also has jurisdiction over dry washes that carry water during storm events. Preliminary notification and project review generally occur during the environmental process. When an existing fish or wildlife resource may be substantially adversely affected, CDFW is required to propose reasonable project changes to protect the resource. These modifications are formalized in a Streambed Alteration Agreement.

### **Sections 3503 and 3503.5**

Under these sections of the California Fish and Game Code, the project proponent is not allowed to conduct activities that would result in the taking, possessing, or destroying of any birds-of-prey, taking or possessing of any migratory non-game bird as designated in the MBTA or the taking, possessing, or needlessly destroying of the nest or eggs of any raptors or non-game birds protected by the MBTA, or the taking of any non-game bird pursuant to CDFW Code Section 3800.

### **Sections 3511, 4700, 5050, and 5515**

Protection of fully protected species is described in Sections 3511, 4700, 5050, and 5515 of the FGC. These statutes prohibit take or possession of fully protected species. CDFW is unable to authorize incidental take of fully protected species, except as allowed for an approved Natural Communities Conservation Plan (NCCP), or through direct legislative action.

### **SECTIONS 1900 THROUGH 1913 - NATIVE PLANT PROTECTION ACT**

California's Native Plant Protection Act (NPPA) requires all State agencies to use their authority to carry out programs to conserve endangered and rare native plants. Provision of the NPPA prohibit that taking of listed plants from the wild and require notification of CDFW at least 10 days in advance of any change in land use. This allows CDFW to salvage listed plant species that otherwise would be destroyed. A project proponent is required to conduct botanical inventories and consult with CDFW during project planning to comply with the provisions of this Act and sections of CEQA that apply to rare or endangered plants.

### **PORTER-COLOGNE WATER QUALITY CONTROL ACT**

The Regional Water Quality Control Board (RWQCB) regulates waters of the State under the authority of the Porter-Cologne Water Quality Control Act (Porter Cologne Act), including all ground and surface water within State boundaries. The RWQCB requires that projects avoid impacts to wetlands whenever feasible and requires that projects do not result in a net loss of wetland acreage or a net loss of wetland function and values. The RWQCB typically requires compensatory mitigation for impacts to wetlands and/or waters of the State. Dredging, filling, or excavation of isolated waters constitutes a discharge of waste into waters of the State, and such discharges are authorized through an Order of Waste Discharge (or waiver of discharge) from the RWQCB.



#### 4.1.4 - IMPACTS AND MITIGATION MEASURES

##### **Methodology**

The impact assessment for aquatic wildlife species relied upon knowledge of aquatic resource habitat requirements and expected changes to habitat or population from implementation of the proposed Project.

Impacts on terrestrial biological resources were qualitatively evaluated using a vegetation/habitat-based approach that links predicted environmental effects of the proposed Project to potential effects on habitat quantity and quality. Effects on wildlife biological resources can be direct, as in the mortality of individual specimens, and indirect, as in effects that do not cause the immediate mortality of an individual but that may reduce the habitat or eliminate the species over time.

##### **Biological Opinions for Coordinated operation of the CVP and SWP**

Reclamation and the California Department of Water Resources (DWR) coordinate long-term operation of the CVP and SWP (CVP/SWP LTO). On July 30, 2004, the USFWS issued Biological Opinion 04-F-0140, which addressed the effects of operating the CVP/SWP and delivering CVP water for renewing water contracts and other actions on the threatened delta smelt (*Hypomesus transpacificus*). On February 15, 2005, USFWS issued Biological Opinion 1-1-05-F-0055 in response to Reclamation's November 3, 2004 request for reinitiation of formal consultation on the CVP/SWP LTO to further address effects on delta smelt critical habitat.

On April 7, 2006, NMFS listed the southern distinct population segment of North American green sturgeon (*Acipenser medirostris*) as threatened under the ESA. Because this newly listed species had not been consulted on under Section 7 of the ESA, Reclamation requested that the NMFS consultation on CVP/SWP LTO be reinitiated. Because of the potential for that consultation to affect species under the USFWS' jurisdiction, and because of the Pelagic Organism Decline, which began in 2002, Reclamation requested that the USFWS also reinitiate consultation on delta smelt. This request was received by the USFWS on July 6, 2006.

Biological opinions were issued by NMFS (2009b) and USFWS (2008) for the effects of CVP/SWP LTO. The NMFS opinion found that the proposed operations were likely to jeopardize several species and result in adverse modification of their critical habitat. The USFWS found that proposed operations were likely to jeopardize the continued existence of delta smelt and adversely modify its critical habitat. The USFWS provided a Reasonable and Prudent Alternative (RPA) with five Final EA CGB-EA-2021-007 25 components. On December 15, 2008, Reclamation submitted a memo provisionally accepting the RPAs developed by the USFWS and included in the CVP/SWP LTO Opinion. The provisional acceptance of the RPA was conditioned upon the further development and evaluation of the two RPA components directed at habitat. Reclamation stated that the two RPA components, RPA Component 3 – the fall action, and RPA Component 4 – the tidal habitat restoration

action, both need additional review and refinement before Reclamation would be able to determine whether implementation of these actions by the CVP and SWP is reasonable and prudent.

However, following their provisional acceptance, both biological opinions were challenged in Court, and following lengthy proceedings, the United States District Court for the Eastern District of California remanded the biological opinions, and Reclamation was ordered by the Court to comply with NEPA before accepting the RPAs. In March and December 2014, the biological opinions issued by USFWS and NMFS, respectively, were upheld by the Ninth Circuit Court of Appeals, although certain requirements (such as an obligation for Reclamation to follow a NEPA process) were left in place. Reclamation completed NEPA on the CVP/SWP LTO biological opinions and issued a ROD on January 11, 2016. In August 2016, Reclamation and DWR reinitiated consultation with USFWS and NMFS on the CVP/SWP LTO in order to update the existing biological opinions in response to multiple years of drought, low population abundances of listed species, and new scientific information developed as a result of ongoing collaborative science efforts. In October 2019, after extensive coordination, collaboration, and associated modification of Reclamation and DWR's proposed action to address impacts to ESA-listed species, non-jeopardy biological opinions were issued by from NMFS and USFWS.

***CONSULTATION ON THE RENEWAL OF IRCs FOR THE CROSS VALLEY AND DELTA DIVISION CONTRACTORS IN SAN JOAQUIN, SANTA CLARA, TULARE, FRESNO, KINGS, AND KERN COUNTIES***

USFWS (2010) determined that issuing 24-month IRC's for the following contractors would not likely adversely affect listed species: City of Tracy (partial assignment from West Side ID); City of Tracy (partial assignment from Banta Carbona ID); County of Fresno; Hills Valley ID; Kern-Tulare Water District; Lower Tule River ID; Pixley ID; Tri-Valley Water District; and County of Tulare.

***INFORMAL CONSULTATION ON CENTRAL VALLEY PROJECT CROSS VALLEY CONTRACTORS IRCs AND ARTICLE 5 EXCHANGES, 2012-2014***

USFWS determined that the proposed two-year IRCs for CVC Unit contractors and Article 5 Exchanges for the contract period March 1, 2012, through February 28, 2014, may affect, but are not likely to adversely affect the federally-listed Buena Vista Lake ornate shrew, San Joaquin kit fox, Tipton kangaroo rat, blunt-nosed leopard lizard, Kern mallow, and San Joaquin woolly-threads.

***Thresholds of Significance***

The 2020 CEQA Guidelines and Appendix G Environmental Checklist established by the State Office of Planning and Research state that a project would have a significant impact on biological resources if it would:

- a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations or by CDFW or USFWS.
- d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species, or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.
- f) Conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or State habitat conservation plan.

The Lead Agency determined in the NOP/IS (see Appendix A) that the following environmental issues areas resulted in no impact and were scoped out of requiring further review in this Draft EIR. Please refer to Appendix A of this Draft EIR for a copy of the NOP/IS and additional information regarding the following impacts:

- b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFW or USFWS.
- c) Have a substantial adverse effect on State- or federally-protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.
- e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.

### ***Project Impacts***

#### **Impact 4.1-1: Have a Substantial Adverse Effect, Either Directly or Through Habitat Modifications, on any Species Identified as a Candidate, Sensitive, or Special-Status Species in Local or Regional Plans, Policies, or Regulations, or by the CDFW and Wildlife USFWS**

The proposed Project includes two components for each CV Contractor:

- The approval and execution of a contract with Reclamation that converts, pursuant to the WIIN Act, the CV Contractor's existing water supply contract for CVP water to a repayment contract authorizing prepayment of outstanding CVP construction costs; and
- The approval and execution of a contract with Reclamation and DWR that renews the terms of an existing contract for the conveyance of the CV Contractor's CVP water until 2035.

The proposed conversion of the existing CVP contracts under the WIIN Act, and renewal and updating the conveyance provisions of the existing contracts into separate conveyance

contracts, will allow the CV Contractors to continue receiving CVP water in the manner consistent with current and historical practices.

No changes over current conditions would occur.

The federally- or State-listed plant species that could occupy the proposed Project Area are: Colusa grass, Hoover's spurge, Keck's checker-mallow, San Joaquin Valley Orcutt grass, succulent (fleshy) owl's-clover and thread-leaved brodiaea. CV Contractors have made contractual commitments under the current three-party contracts to comply with the various BOs listed above. Those contractual commitments will be included as part of the Project to ensure continued compliance with the applicable BOs. These include commitments from USFWS' BOs on the implementation of the CVPIA and Continued O&M of the CVP (November 21, 2000, Service File No. 98-F-0124), and the Friant and Cross Valley Canal Unit Long-Term Contract Renewals (Service File No. 01-F-0027).

These documents provide Reclamation and other agencies with requirements for operation of the CVP, implementation of the CVPIA, and for the interim or long-term renewal of CVP water service contracts. The CV Contractors, as part of this proposed Project, will continue to implement in a timely manner relevant environmental commitment, conservation measures, and terms and conditions from other BOs as appropriate and required. These contractual commitments would continue to ensure that special-status plant species would not be affected by the continued conveyance of the existing CVP water supply.

The CV Contractors would receive only the amount of water contractually available. These contractual commitments would also protect native lands within the Project Area. These native lands include critical habitat for owl's-clover, Hoover's spurge, and San Joaquin Valley Orcutt grass. These contractual commitments also protect other special-status species that may occur in the vicinity of the Project Area. Therefore, the proposed Project is not expected to result in any direct or indirect effects on special-status plant species (including federally-listed or proposed species) or any critical habitat.

With continued implementation of relevant environmental commitments, conservation measures, and terms and conditions from BOs as appropriate and required as summarized above, and because no changes over current baseline conditions would occur as a result of the Project, there would be no impact on these species or critical habitat; therefore, no additional mitigation is required for this proposed Project.

#### ***MITIGATION MEASURES***

No mitigation measures are required.

#### ***LEVEL OF SIGNIFICANCE***

***No impact.***

**Impact 4.1-2: Interfere Substantially with the Movement of any Native Resident or Migratory Fish or Wildlife Species or with Established Native Resident or Migratory Wildlife Corridors, or Impede the Use of Native Wildlife Nursery Sites**

Under the proposed Project, CVP and SWP operations and deliveries would be the same as under existing conditions. Critical habitat for the delta smelt, Central Valley steelhead, Central Valley spring-run Chinook salmon, Sacramento winter-run Chinook salmon, and the southern DPS of North American green sturgeon occurs within the Delta but not within the Project Area (NMFS, 1993) (NMFS, 2005) (NMFS, 2006) (USFWS, 1994). The proposed Project does not change the magnitude or timing of water diversions from the Delta relative to current conditions. Furthermore, operations of the CVP and SWP are regulated by existing USFWS BOs on the coordinated operations of the CVP and SWP (USFWS, 2019) from which an RPA was developed to protect the delta smelt and its habitat. Similarly, the long-term operations of the CVP and SWP are regulated by an existing NMFS BO (NOAA, 2019) from which an RPA was developed to protect Central Valley steelhead, Central Valley spring-run Chinook salmon, Sacramento winter-run Chinook salmon, and the Southern DPS of North American green sturgeon and their habitats within the Delta. To the extent a subsequent re-consultation of any of these BOs results in future modifications to the operation of the CVP and/or SWP or there are future orders by a Court directing a modification to operations. Any such required modification to the operation of the CVP and SWP will be fulfilled by Reclamation and/or DWR, including the CV Contractors, as required through binding contractual obligations included within the CV Contractors' water service contracts. The diversion from the Delta of CVP water to fulfill the CV Contractors contractual entitlement occurs subject to the terms outlined in the issued USFWS and NMFS BOs, as modified by and subject to applicable Court orders. Therefore, less-than-significant impacts to delta smelt, Central Valley steelhead, Central Valley spring-run Chinook salmon, Sacramento winter-run Chinook salmon, and the southern DPS of North American green sturgeon, and/or their habitat are anticipated from implementation of the proposed Project.

Under the proposed Project, delivery of water from Millerton Lake through the FKC, as part of an exchange between a CV Contractor and an Exchange Entity, would be the same as under existing conditions. Critical habitat for Central Valley steelhead extends into the lower San Joaquin River to the Merced River confluence. The primary goal of the San Joaquin River Restoration Program is to restore a self-sustaining Chinook salmon fishery in the river and reduce or avoid adverse water supply impacts from restoration flows.

Conservancy fairy shrimp, vernal pool fairy shrimp, and vernal pool tadpole shrimp may potentially occur within the Project Area, as well as potential critical habitat. Implementation of the proposed Project would not involve construction or land disturbing activities, leaving biological conditions similar to those under existing conditions. BOs (U.S. Bureau of Reclamation, 2001) (USFWS, 2005) (NMFS, 2004) found there would be no jeopardy to the above species if the provisions of those opinions were implemented.

With continued implementation of relevant environmental commitments, conservation measures, and terms and conditions from BOs as appropriate and required, as noted above,

there would be no impact on these species or critical habitat; therefore, no additional mitigation is required for this proposed Project.

Central Valley steelhead, Central Valley spring-run Chinook salmon, Sacramento winter-run Chinook salmon, and the Southern DPS of North American green sturgeon are anadromous species that migrate to the ocean from freshwater as juveniles and return from the ocean to freshwater as adults to spawn. Water diversions can impede migration by dewatering stream channels, entraining juveniles in irrigation canals, impinging juveniles on screens covering diversion points, emplacing structures that create physical barriers to movement, or creating false migration pathways from attraction flows at diversion points. Under the proposed Project, CVP and SWP operations and deliveries would be the same as under existing conditions. The proposed Project does not change the magnitude or timing of water diversions from the Delta relative to current conditions. Furthermore, operations of the CVP and SWP are regulated by existing BOs developed to protect aquatic species such as delta smelt, steelhead and salmon species, and North American green sturgeon. As the proposed Project would occur within existing conveyance facilities, no construction is associated with the proposed Project, and the CV Contractors' water supply contracts would require continued implementation of relevant environmental commitments, conservation measures, and terms and conditions from BOs as appropriate as summarized above, the proposed Project would not have a direct or indirect adverse effect on the movement of any native or resident or migratory fish. Therefore, no impact would occur, and no mitigation is required.

The proposed Project would not interfere with the movement of any native resident or migratory wildlife species, with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites, because no new construction or facilities are being proposed. Therefore, the proposed Project would not result in direct or indirect adverse impacts related to the movement of wildlife species. No impact would occur, and no mitigation is required.

#### ***MITIGATION MEASURES***

No mitigation measures are required.

#### ***LEVEL OF SIGNIFICANCE***

***No impact.***

#### **Impact 4.1-3: Conflict with the Provisions of an Adopted Habitat Conservation Plan, Natural Communities Conservation Plan, or other Approved Local, Regional, or State Habitat Conservation Plan**

Although two existing HCPs cover portions of the Project Area and additional HCPs are in the process of being prepared (i.e., Kern Water Bank HCP, Kern County Valley Floor HCP, and the Bakersfield HCP), the proposed Project would not conflict with provisions of any of the existing and/or proposed plans. No impact would occur, and no mitigation is required.

**MITIGATION MEASURES**

No mitigation measures are required.

**LEVEL OF SIGNIFICANCE**

*No impact.*

**Cumulative Setting Impacts and Mitigation Measures****CUMULATIVE IMPACTS**

CEQA Guidelines Section 15130(a) states: An EIR shall discuss cumulative impacts of a project when the project's incremental effect is cumulatively considerable, as defined in Section 15065(a)(3). Where a Lead Agency is examining a project with an incremental effect that is not "cumulatively considerable," a Lead Agency need not consider that effect significant but shall briefly describe its basis for concluding that the incremental effect is not cumulatively considerable.

Under the proposed Project, the same contractual amount of water would be delivered to the same lands without the need for additional facility modifications or construction. Thus, no impacts to aquatic biological resources are expected from implementation of the proposed Project, and together with reasonably foreseeable future actions would not incrementally contribute to any considerable effects to the aquatic biological resources within the Project Area. Because the proposed Project is not expected to result in any direct or indirect effects to biological species, including special-status plant, wildlife, and aquatic species, and/or their habitat, the proposed Project would not contribute cumulatively to any effects on biological resources. Therefore, cumulative impacts will be less than significant.

**MITIGATION MEASURES**

No mitigation measures are required.

**CUMULATIVE LEVEL OF SIGNIFICANCE**

Cumulative impacts would be *less than significant*.

## **4.2 - Energy**

### **4.2.1 - INTRODUCTION**

This section of the DEIR evaluates potential energy impacts associated with implementation of the proposed Project. The analysis in this section relies on some information discussed and disclosed in Section 4.3, *Greenhouse Gas (GHG) Emissions*, which in part analyzes GHGs associated with use of energy. The analysis in this section considers whether implementation of the proposed Project would result in wasteful, and unnecessary consumption of energy.

### **4.2.2 - ENVIRONMENTAL SETTING**

#### **Regional Character**

The CVC is a water conveyance facility in the southern SJV that extends from the Aqueduct near Tupman, east to the FKC and beyond. The CVC can convey water to the CV Contractors' turnouts along the FKC, on the east side of the SJV. The CV Contractors are located within Fresno, Kings, Tulare, and Kern counties. DWR operates the SWP, with facilities available for conveyance of CVP water for CV Contractors when unused capacity is present, located in Central California from Clifton Court Forebay south to the Aqueduct's connection with the CVC. Reclamation's Mid-Pacific Region has 11 hydroelectric power plants in the CVP with a maximum operation capacity of 2,100 megawatts (MW) when all reservoirs are at their fullest.

#### **Energy Resources**

Pacific Gas and Electric (PG&E) and Southern California Edison provide almost all the energy for the majority of the SJV area. PG&E provides electricity and natural gas services throughout its service area.

PG&E's natural gas system encompasses approximately 70,000 square miles in Northern and Central California. Approximately 90 percent of the natural gas supply for PG&E is from out-of-state imports. The primary pipeline that extends through California includes Lines 400 and 401 consisting of 725 miles of 36-inch and 42-inch pipelines. These pipelines extend from the TransCanada's system that originates in Canada and extends through Malin, Oregon. In addition, there is Line 300 that consists of 1,004 miles of 34-inch pipeline that extends from four interstate pipelines through Topock, Arizona. The natural gas system includes various storage facilities and compressor stations along the transmission lines.

Reclamation's Mid-Pacific Region has 11 hydroelectric power plants in the CVP with a maximum operation capacity of 2,100 megawatts (MW) when all reservoirs are at their fullest. The power generated from these plants provides power to convey water within the CVP service area. CVP power plants are operated 24 hours a day, 365 days a year.



Hydroelectric facilities are located at most of the CVP and SWP dams. As water is released from the CVP and SWP reservoirs, the generation facilities produce power that is used by the CVP and SWP pumping plants, respectively. The SWP also generates hydroelectricity along the California Aqueduct at energy recovery plants. Between 1983 and 2013, DWR owned a portion of the Nevada Power Company's coal-fired Reid Gardner Unit 4 Power plant. However, this agreement was not renewed upon expiration in 2013. Power generated by the CVP is transmitted by Western Area Power Administration (WAPA) to CVP facilities. Power that is excess to CVP needs is marketed by WAPA to electric utilities, government and public installations, and commercial "preference" customers who have 20-year contracts. Power generated by the SWP is transmitted by Pacific Gas & Electric Company, Southern California Edison, and California Independent System Operator through other facilities. The SWP also markets energy in excess of the SWP demands to a utility and members of the Western Systems Power Pool.

The majority of the energy used by the CVP is needed for pumping plants located in the Delta, at San Luis Reservoir, and along the Delta-Mendota Canal and San Luis Canal portion of the California Aqueduct. The consumption of electrical energy for pumping CVP water at the Delta, at Dos Amigos Pumping Plant, and in the CVC comes largely from CVP hydroelectric power plants, which provide a net zero-carbon source of electrical energy to the power grid. DWR will provide power when Article 55 of the long-term SWP contract is used to convey water for the SWP contractors. The conveyance of CVP water to the CV Contractors and potential exchange partners would continue to be implemented via gravity flow and/or pumping using electric motors.

### **Transportation**

According to the California Energy Commission (CEC), transportation accounted for nearly 37 percent of California's total energy consumption in 2014 (California Energy Commission, 2017). In 2018, California consumed 15.6 billion gallons of gasoline and 3.7 billion gallons of diesel fuel (California Department of Tax and Fee Administration, 2019a) (CDTFA, 2019b). Petroleum-based fuels currently account for more than 90 percent of California's transportation fuel use (California Energy Commission, 2016a). However, the State is now working on developing flexible strategies to reduce petroleum use. Over the last decade, California has implemented several policies, rules, and regulations to improve vehicle efficiency, increase the development and use of alternative fuels, reduce air pollutants and greenhouse gas (GHG) from the transportation sector, and reduce vehicle miles traveled (California Energy Commission, 2016a). The CEC predicts that the demand for gasoline will continue to decline over the next 10 years, and there will be an increase in the use of alternative fuels (California Energy Commission, 2016b).

#### **4.2.3 - REGULATORY SETTING**

Federal and State agencies regulate energy use and consumption through various means and programs. On the federal level, the United States Department of Transportation, the United States Department of Energy, the United States Environmental Protection Agency, and the Federal Energy Regulatory Commission are four federal agencies with substantial influence

over energy policies and programs. Generally, federal agencies influence and regulate transportation energy consumption through establishment and enforcement of fuel economy standards for automobiles and light trucks, through funding of energy related research and development projects, and through funding for transportation infrastructure improvements. On the State level, the California Public Utilities Commission (CPUC) and the California Energy Commission (CEC) are two agencies with authority over different aspects of energy. Additionally, the California Independent System Operator (ISO) maintains reliability of the California energy market.

The CPUC regulates privately owned electric, natural gas, telecommunications, water, railroad, rail transit, and passenger transportation companies and serves the public interest by protecting consumers and ensuring the provision of safe, reliable utility service and infrastructure at reasonable rates, with a commitment to environmental enhancement and a healthy California economy (California Public Utilities Commission, 2020).

The California Energy Commission is the State's primary energy policy and planning agency. The CEC forecasts future energy needs, promotes energy efficiency, supports energy research, develops renewable energy resources and plans for/directs State response to energy emergencies (California Public Utilities Commission, 2020).

The Project is subject to these regulatory requirements as applicable.

## **Federal**

### **FEDERAL ENERGY POLICY AND CONSERVATION ACT**

The Energy Policy and Conservation Act of 1975 sought to ensure that all vehicles sold in the U.S. would meet certain fuel economy goals. This Act enabled Congress to establish the first fuel economy standards for on-road motor vehicles in the United States. In compliance with this Act, the National Highway Traffic and Safety Administration has the responsibility for establishing additional vehicle standards and revising existing standards. Since 1990, the fuel economy standard for new passenger cars has been 27.5 miles per gallon and since 1996, the fuel economy standard for new light trucks (gross vehicle weight of 8,500 pounds or less) has been 20.7 miles per gallon. Currently, heavy-duty vehicles (i.e., vehicles and trucks over 8,500 pounds gross vehicle weight) are not subject to fuel economy standards. Compliance with federal fuel economy standards is determined based on the basis of each manufacturer's average fuel economy for the portion of their vehicles produced for sale in the U.S. The Corporate Average Fuel Economy (CAFE) Program, administered by U.S. EPA, was created to determine vehicle manufacturers' compliance with the fuel economy standards. The CAFE value is calculated by the U.S. EPA for each manufacturer based on city and highway fuel economy test results and vehicle sales. Using the information generated under the CAFE Program, the United States Department of Transportation has the authority to assess penalties for non-compliance (South Coast Air Quality Management District, 2012).

**ENERGY POLICY ACT OF 2005**

This Act addresses energy efficiency; renewable energy requirements; oil, natural gas and coal; alternative-fuel use; tribal energy, nuclear security; vehicles and vehicle fuels, hydropower and geothermal energy, and climate change technology. The Act provides revised annual energy reduction goals (two percent per year beginning in 2006), revised renewable energy purchase goals, federal procurement of Energy Star or Federal Energy Management Program-designated products, federal green building standards, and fuel cell vehicle and hydrogen energy system research/demonstration (South Coast Air Quality Management District, 2012).

**INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991 (ISTEA)**

The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) was enacted to promote the development of intermodal transportation systems to maximize mobility as well as address national and local interests in air quality and energy. ISTEA contained factors that Metropolitan Planning Organizations (MPOs), were to address in developing transportation plans and programs, including some energy-related factors. To meet the new ISTEA requirements, MPOs adopted explicit policies defining the social, economic, energy, and environmental values that were to guide transportation decisions in that metropolitan area. The planning process for specific projects would then address these policies. Another requirement was to consider the consistency of transportation planning with federal, State, and local energy goals. Through this requirement, energy consumption was expected to become a decision criterion, along with cost and other values that determine the best transportation solution.

**NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION STANDARDS**

Federal standards are being set by the National Highway Traffic Safety Administration (NHTSA) and the U.S. Environmental Protection Agency to encourage and incentivize the production of clean energy vehicles with improved fuel efficiency. NHTSA sets the Corporate Average Fuel Economy (CAFE) standard, which is increasing into the future in order to improve energy security and reduce fuel consumption. The first phase of the CAFE standards (for model year 2017 to 2021) is projected to require, on an average industry fleet-wide basis, a range from 40.3 to 41.0 mpg in model year 2021. The second phase of the CAFE Program (for model years 2022 to 2025) is projected to require, on an average industry fleet-wide basis, a range from 48.7 to 49.7 mpg in model year 2025. The second phase of standards has not been finalized due to the statutory limitation that the NHTSA set average fuel economy standards not more than five model years at a time (NHTSA, 2019).

**State****CALIFORNIA PUBLIC UTILITIES COMMISSION REQUIREMENTS**

The California Public Utilities Commission (CPUC) is a constitutionally created State agency that came into existence through amendment in 1911. The mission of the CPUC is to regulate

privately-owned utilities providing telecommunications, electric, natural gas, water, railroad, rail transit, and passenger transportation services, and in-state moving companies. The CPUC is responsible for assuring that California utility customers have safe, reliable utility services at reasonable rates, while protecting utility customers from fraud. The CPUC provides oversight of a number of regulatory programs including the planning and approval for the physical construction of electric generation, transmission, or distribution facilities; and local natural gas distribution pipelines (California Public Utilities Commission, 2020).

### ***CALIFORNIA ENERGY COMMISSION***

California's primary energy policy and planning agency is the CEC which was created by the California legislature in 1974. The CEC has five major responsibilities: (1) forecasting future energy needs and keeping historical energy data; (2) licensing thermal power plants 50 MW or larger; (3) promoting energy efficiency through appliance and building standards; (4) developing energy technologies and supporting renewable energy; and (5) planning for and directing State response to energy emergencies. Under the requirements of the California Public Resources Code, the CEC in conjunction with the California Department of Conservation (DOC) Division of Oil, Gas, and Geothermal Resources is required to assess electricity and natural gas resources on an annual basis or as necessary. The CECs integrated policy report concludes that efficiency achieved through building codes, appliance standards, and ratepayer-funded programs has had, and will continue to have, a positive impact on GHG emissions.

### ***THE RENEWABLE PORTFOLIO STANDARD***

An important State program to promote the increase of renewable energy into the State's energy grid is the Renewable Portfolio Standard (RPS). The RPS is enforced by both the CPUC and CEC. Established by Senate Bill (SB) 1078 in 2002, the RPS was accelerated in 2006 by SB 107 and requires that 20 percent of electricity retail sales need to be served by renewable energy resources by 2010. In 2008, Governor Arnold Schwarzenegger signed Order S-14-08 which required electricity retailers to meet a 33 percent threshold for renewable energy by 2020; this was passed into State law by SB X1-2 in 2011. All electricity retailers now have a target of 33 percent renewables by the end of 2020.

Approved by Governor Brown on October 7, 2015, SB 350 increases California's renewable electricity procurement goal from 33 percent by 2020 to 50 percent by 2030. This will increase the use of RPS eligible resources, including solar, wind, biomass, and geothermal. In addition, large utilities are required to develop and submit Integrated Resource Plans to detail how each entity will meet their customers resource needs, reduce GHG emissions, and increase the use of clean energy.

Approved by Governor Brown on September 10, 2018, SB 100 extends the renewable electricity procurement goals and requirements of SB 350. SB 100 requires that all retail sale of electricity to California end-use customers be procured from 100 percent eligible renewable energy resources and/or zero-carbon resources by the end of 2045.

DWR is not subject to the RPS, since is not a retail seller of electricity and is not subject to the CPUC jurisdiction.

### **GREEN BUILDING INITIATIVE**

In 2012, Governor Brown's Executive Order B-18-12 (State of California Governor Office 2012) identified the following energy efficiency improvement goals for facilities owned, funded, and leased by the State:

- All new State buildings beginning design after 2025 shall be constructed as ZNE facilities with an interim target for 50 percent of new facilities beginning design after 2020 to be ZNE. State agencies shall also take measures toward achieving ZNE for 50 percent of the square footage of existing State-owned building area by 2025;
- The State shall identify at least three buildings by January 1, 2013, to pursue ZNE as pilot projects;
- New and major renovated State buildings shall be designed and constructed to exceed the applicable version of CCR Title 24, Part 6, by 15 percent or more, and include building commissioning, for buildings authorized to begin design after July 1, 2012;
- Any proposed new or major renovation of State buildings larger than 10,000 square feet shall use clean, onsite power generation such as solar photovoltaic, solar thermal, and wind power generation, and clean backup power supplies, if economically feasible; and
- New and major renovated State buildings larger than 10,000 square feet shall obtain Leadership in Energy and Environmental Design (LEED) "Silver" certification or higher.

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Section 21100(b) of the CEQA Guidelines requires that an EIR include a detailed statement setting forth mitigation measures proposed to minimize a project's significant effects on the environment, including, but not limited to, measures to reduce the wasteful, inefficient, or unnecessary consumption of energy. Appendix F of the CEQA Guidelines states that, in order to ensure that energy implications are considered in project decisions, the potential energy implications of a project shall be considered in an EIR, to the extent relevant and applicable to the project. Appendix F further states that a project's energy consumption and proposed conservation measures may be addressed, as relevant and applicable, in the Project Description, Environmental Setting and Impact Analysis portions of technical sections, as well as through mitigation measures and alternatives.

In accordance with the intent of Appendix F of the CEQA Guidelines, which requires an EIR to include a discussion of the potential energy impacts of a proposed project with an emphasis on avoiding or reducing inefficient, wasteful, or unnecessary consumption of energy, this Draft EIR includes relevant information and analyses that address the energy implications of the Project. This section represents a summary of the Project's anticipated energy needs, impacts, and conservation measures.

## **STATE OF CALIFORNIA ENERGY PLAN**

The California Energy Commission (CEC) is responsible for preparing the California Energy Plan, which identifies emerging related to energy supply, demand, conservation, public health and safety, and the maintenance of a healthy economy. Senate Bill 1389 requires the Energy Commission to prepare a biennial Integrated Policy Energy Report (IERP). The report contains an integrated assessment of major energy trends and issues facing California's electricity, natural gas, and transportation fuel sectors. The report provides policy recommendations to conserve resources, protect the environment, ensure reliable, secure, and diverse energy supplies, enhance the State's economy, and protect public health and safety. The current report is the 2020 Integrated Energy Policy Report.

### **4.2.4 - IMPACTS AND MITIGATION MEASURES**

#### **Methodology**

The analysis relies of some information discussed and disclosed in Section 4.3, *Greenhouse Gas (GHG) Emissions*, which in part analyzes GHGs emitted from use of energy. The analysis in this section considers whether implementation of the proposed Project would result in wasteful, and unnecessary consumption of energy.

#### **Thresholds of Significance**

The following criteria, as established in Appendix G of the CEQA Guidelines, will be utilized to determine if a project could potentially have a significant impact:

- a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation.
- b) Conflict with or obstruct a State or local plan for renewable energy or energy efficiency.

#### **Project Impacts**

##### **Impact 4.2-1: Result in Potentially Significant Environmental Impact Due to Wasteful, Inefficient, or Unnecessary Consumption of Energy Resources, During Project Construction or Operation**

The proposed Project includes two components for each CV Contractor:

- The approval and execution of a contract with Reclamation that converts, pursuant to the WIIN Act, the CV Contractor's existing water supply contract for CVP water to a repayment contract authorizing prepayment of outstanding CVP construction costs; and

- The approval and execution of a contract with Reclamation and DWR that renews the terms of an existing contract for the conveyance of the CV Contractor's CVP water until 2035.

The proposed conversion of the existing CVP contracts under the WIIN Act, and renewal and updating the conveyance provisions of the existing contracts into separate conveyance contracts, will allow the CV Contractors to continue receiving CVP water in the manner consistent with current and historical practices.

No changes over current conditions would occur, and energy usage associated with current activities in the CV Contractor's water use service areas would continue under the proposed Project. No construction would be required, nor would the number of vehicle trips increase over current levels. Additionally, energy consumption for the proposed Project would be equal to the existing demand currently provided. The conveyance of CVP water to the CV Contractors and potential exchange partners would continue to be implemented via gravity flow and/or pumping using electric motors. Additionally, electrical energy consumption for pumping CVP water at the Delta, at Dos Amigos Pumping Plant, and in the CVC, comes largely from CVP hydroelectric power plants, which provide a zero-carbon source of electrical energy.

It is anticipated that DWR would incorporate DWR's Greenhouse Gas Emissions Reduction Plan (GGERP) implementation measures associated with the operation of the SWP facilities, such as: increasing efficiency of SWP pumps and generators through replacement and refurbishment, increasing the use of renewable energy to operate the SWP, developing renewable energy projects on DWR's property and improving building and equipment energy efficiencies (California Department of Water Resources, 2020). Therefore, environmental impacts due to wasteful, inefficient, or unnecessary consumption of energy resources are less than significant.

#### **MITIGATION MEASURES**

No mitigation measures required.

#### **LEVEL OF SIGNIFICANCE**

Impacts would be *less than significant*.

#### **Impact 4.2-2: Conflict with or Obstruct a State or Local Plan for Renewable Energy or Energy Efficiency**

No changes over current conditions would occur and energy usage associated with current activities in the CV Contractor's water use service areas would continue under the proposed Project. The proposed Project would not conflict with or obstruct a State or local plan for renewable energy or energy efficiency; therefore, no impact would occur, and no mitigation is required.

**MITIGATION MEASURES**

No mitigation measures are required.

**LEVEL OF SIGNIFICANCE**

*No impact.*

**Cumulative Setting Impacts and Mitigation Measures****CUMULATIVE IMPACTS**

The conveyance of CVP water to the CV Contractors and potential exchange partners would continue to be implemented via gravity flow and/or pumping using electric motors. Therefore, consumption of energy would not be in a wasteful manner. The consumption of fuel and energy would not be substantial in comparison to statewide electricity, natural gas, gasoline, and diesel demand. New capacity or supplies of energy resources would not be required. Additionally, the proposed Project would be subject to compliance with all federal, State and local requirements for energy efficiency.

The proposed Project would not result in significant energy consumption impacts. The proposed Project would not be considered inefficient, wasteful, or unnecessary with regard to energy. Thus, the proposed Project and associated use of SWP facilities for this Project will not constitute a cumulatively considerable contribution to energy consumption.

**MITIGATION MEASURES**

No mitigation measures are required.

**CUMULATIVE LEVEL OF SIGNIFICANCE**

Cumulative impacts would be *less than significant*.



## **4.3 - Greenhouse Gas Emissions**

### **4.3.1 - INTRODUCTION**

This section describes the affected environmental and regulatory setting for greenhouse gas (GHG) emissions in the Project Area. It also describes the impacts on GHG emissions that would result from implementation of the proposed Project, and mitigation measures to reduce identified impacts, if needed. Information in this section is based on methodologies and assumptions recommended by the San Joaquin Valley Air Pollution Control District (SJVAPCD), the San Joaquin Valley Clean Air Plan and Department of Water Resources Climate Action Plan.

### **4.3.2 - ENVIRONMENTAL SETTING**

#### ***Topography and Meteorology***

The SJVAB is located SOD and is approximately 250 miles long and 35 miles wide. The SJVAB is defined by the Sierra Nevada in the east, the Coast Ranges in the west, and the Tehachapi Mountains in the south. The SJV is basically flat with a slight downward gradient to the northwest. Although marine air generally flows into the SJVAB from the Delta, the region's topographic features restrict air movement through and out of the basin. Local climatological effects, including wind speed and direction, temperature, inversion layers, and precipitation and fog, can exacerbate air quality problem in the SJVAB (San Joaquin Valley Air Pollution District, 2019).

During the winter months, the SJV experiences light, variable winds, less than 10 mph. Low wind speeds, combined with low inversion layers in the winter, create conditions conducive to high concentrations of carbon monoxide (CO) and respirable particulate matter less than 10 microns in diameter (PM<sub>10</sub>) concentrations. The SJVAB has an "inland Mediterranean" climate averaging over 260 sunny days per year. The SJV floor is characterized by warm, dry summers and cooler winters. The vertical dispersion of air pollutants in the SJVAB is limited by the presence of persistent temperature inversions. Precipitation on the SJVAB floor and in the Sierra Nevada decreases from north to south. Precipitation in the SJVAB is confined primarily to the winter months with some also occurring in late summer and fall. Average annual rainfall for the entire SJV is 9.25 inches on the SJV floor. Between winter storms, high pressure and light winds allow cold moist air to pool on the SJV floor. This creates strong low-level temperature inversions and very stable air conditions. This situation leads to the SJV's Tule fog. The water droplets in fog can act as a sink for CO and nitrogen oxides (NO<sub>x</sub>), lowering pollutant concentrations. At the same time, fog can help in the formation of secondary particulates such as ammonium sulfate.

## ***Air Quality in the San Joaquin Valley***

### ***NON-ATTAINMENT CLASSIFICATIONS***

The SJVAB is designated as extreme non-attainment for the federal 8-hour ozone standard and non-attainment for the federal PM<sub>2.5</sub> standard (federal and State standards are discussed below under Regulatory Framework). It also is designated as being in severe non-attainment for the State 1-hour ozone standard and non-attainment for the State 8-hour ozone, PM<sub>10</sub>, and PM<sub>2.5</sub> standards for all other pollutants for which there are federal or State standards, the SJVAB is either attainment or unclassified (SJVAPCD, 2012).

### ***KEY AIR POLLUTANTS AND THEIR SOURCES***

Ozone is not emitted directly into the atmosphere but is formed by a complex series of chemical reactions between reactive organic gases (ROG), NO<sub>x</sub>, and sunlight. ROGs are photochemically reactive hydrocarbons that are important for ozone formation. ROG and NO<sub>x</sub> are emitted from automobiles, trucks, farm equipment, oil and gas production, solvents, and fuel combustion, the sources of which are widespread throughout the SJVAB. CO is formed by the incomplete combustion of fuels and is emitted directly into the air (unlike ozone). The main source of CO in the SJVAB is on-road motor vehicles, although other CO sources in the SJV include other mobile sources and burning of wastes. PM<sub>10</sub> and PM<sub>2.5</sub> are composed of dust, sand, salt spray, metallic, and mineral particles, pollen, smoke, mist, and acid fumes. PM<sub>2.5</sub> sources tend to be combustion sources like vehicles, power generation, industrial processes, and wood burning, while PM<sub>10</sub> sources include these same sources plus roads and farming activities. Fugitive windblown dust and other area sources also represent sources of airborne dust in the SJVAB (San Joaquin Valley Air Pollution District, 2019).

### ***SENSITIVE RECEPTORS***

As defined by the Environmental Protection Agency, "Sensitive receptors include, but are not limited to, hospitals, schools, daycare facilities, elderly housing and convalescent facilities." These are areas where the occupants are more susceptible to the adverse effects of exposure to toxic chemicals, pesticides, and other pollutants. Extra care must be taken when dealing with contaminants and pollutants in close proximity to areas recognized as sensitive receptors. The facilities involved with water conveyance (canals and pumps) are predominately in rural areas and are not close to sensitive receptors. The Aqueduct passes by the communities of Kettleman City, Lost Hills, and Tupman. The pumping facilities (Banks Pumping Plant and Dos Amigos) are not near sensitive receptors.

### ***4.3.3 - REGULATORY SETTING***

In 1988, the United Nations established the Intergovernmental Panel on Climate Change (IPCC) to evaluate the impacts of global warming and to develop strategies that nations could implement to curtail global climate change. In 1992, the United Nations Framework Convention on Climate Change (UNFCCC) established an agreement with the goal of controlling GHG emissions, including CH<sub>4</sub>. As a result, the Climate Change Action Plan was

developed to address the reduction of GHGs in the United States. The plan consists of more than 50 voluntary programs. Additionally, the Montreal Protocol was originally signed in 1987 and substantially amended in 1990 and 1992. The Montreal Protocol stipulates that the production and consumption of compounds that deplete ozone in the stratosphere (chlorofluorocarbons (CFCs), halons, carbon tetrachloride, and methyl chloroform) were phased out by 2000 (methyl chloroform was phased out by 2005).

Global warming and climate change have received substantial public attention for more than 20 years. For example, the United States Global Change Research Program was established by the Global Change Research Act of 1990 to enhance the understanding of natural and human-induced changes in the earth's global environmental system, to monitor, understand and predict global change, and to provide a sound scientific basis for national and international decision making. Even so, analytical tools have not been developed to determine the effect on worldwide global warming from a particular increase in GHG emissions, or the resulting effects on climate change in a particular locale. The scientific tools needed to evaluate the impacts that a specific project may have on the environment are even farther in the future.

To date, no national standards have been established for nationwide GHG reduction targets, nor have any regulations or legislation been enacted specifically to address climate change and GHG emissions reduction at the project level. Various efforts have been promulgated at the federal level to improve fuel economy and energy efficiency to address climate change and its associated effects.

The Project is subject to these regulatory requirements as applicable.

## **Federal**

### **CLEAN AIR ACT**

The Federal Clean Air Act (FCAA) does not specifically regulate GHG emissions; however, on April 2, 2007 the U.S. Supreme Court in *Massachusetts v. U.S. Environmental Protection Agency*, determined that GHGs are pollutants that can be regulated under the FCAA. The EPA adopted an endangerment finding and cause or contribute finding for GHGs on December 7, 2009. Under the endangerment finding, the Administrator found that the current and projected atmospheric concentrations of the six, key, well-mixed GHGs (CO<sub>2</sub>, CH<sub>4</sub>, N<sub>2</sub>O, HFCs, PFCs, and SF<sub>6</sub>) threaten the public health and welfare of current and future generations. Under the cause or contribute finding, the Administrator found that the combined emissions of these well-mixed GHGs from new motor vehicles and new motor vehicle engines contribute to the GHG pollution which threatens public health and welfare.

Based on these findings, on April 1, 2010, the EPA finalized the light-duty vehicle rule controlling GHG emissions. This rule confirmed that January 2, 2011, is the earliest date that a 2012 model year vehicle meeting these rule requirements may be sold in the United States. On May 13, 2010, the EPA issued the final GHG Tailoring Rule. This rule set thresholds for GHG emissions that define when permits under the Prevention of Significant Deterioration

and title V operating permit programs are required for new and existing industrial facilities. Implementation of the federal rules is expected to reduce the level of emissions from new motor vehicles and large stationary sources.

### ***ENERGY INDEPENDENCE AND SECURITY ACT OF 2007***

The Energy Independence and Security Act of 2007 (December 2007), among other key measures, requires the following, which would aid in the reduction of national GHG emissions:

- Increase the supply of alternative fuel sources by setting a mandatory renewable fuel standard requiring fuel producers to use at least 36 billion gallons of biofuel in 2022;
- Set a target of 35 miles per gallon for the combined fleet of cars and light trucks by model year 2020, and direct the National Highway Traffic Safety Administration (NHTSA) to establish a fuel economy program for medium- and heavy-duty trucks and create a separate fuel economy standard for work trucks; and
- Prescribe or revise standards affecting regional efficiency for heating and cooling products and procedures for new or amended standards, energy conservation, energy efficiency labeling for consumer electronic products, residential boiler efficiency, electric motor efficiency, and home appliances.

### ***FEDERAL VEHICLE STANDARDS***

In response to the U.S. Supreme Court ruling discussed above, the George W. Bush Administration issued Executive Order 13432 in 2007 directing the EPA, the Department of Transportation, and the Department of Energy to establish regulations that reduce GHG emissions from motor vehicles, non-road vehicles, and non-road engines by 2008. In 2009, the NHTSA issued a final rule regulating fuel efficiency and GHG emissions from cars and light-duty trucks for model year 2011, and in 2010, the EPA and NHTSA issued a final rule regulating cars and light-duty trucks for model years 2012–2016.

In 2010, President Barack Obama issued a memorandum directing the Department of Transportation, Department of Energy, EPA, and NHTSA to establish additional standards regarding fuel efficiency and GHG reduction, clean fuels, and advanced vehicle infrastructure. In response to this directive, the EPA and NHTSA proposed stringent, coordinated federal GHG and fuel economy standards for model years 2017–2025 light-duty vehicles. The proposed standards projected to achieve 163 grams per mile of CO<sub>2</sub> in model year 2025, on an average industry fleet-wide basis, which is equivalent to 54.5 miles per gallon if this level were achieved solely through fuel efficiency. The final rule was adopted in 2012 for model years 2017–2021, and NHTSA intends to set standards for model years 2022–2025 in a future rulemaking. On January 12, 2017, the EPA finalized its decision to maintain the current GHG emissions standards for model years 2022–2025 cars and light trucks.

In addition to the regulations applicable to cars and light-duty trucks described above, in 2011, the EPA and NHTSA announced fuel economy and GHG standards for medium- and heavy-duty trucks for model years 2014–2018. The standards for CO<sub>2</sub> emissions and fuel

consumption are tailored to three main vehicle categories: combination tractors, heavy-duty pickup trucks and vans, and vocational vehicles. According to the EPA, this regulatory program will reduce GHG emissions and fuel consumption for the affected vehicles by six to 23 percent over the 2010 baselines.

In August 2016, the EPA and NHTSA announced the adoption of the phase two program related to the fuel economy and GHG standards for medium- and heavy-duty trucks. The phase two program will apply to vehicles with model year 2018 through 2027 for certain trailers, and model years 2021 through 2027 for semi-trucks, large pickup trucks, vans, and all types and sizes of buses and work trucks. The final standards are expected to lower CO<sub>2</sub> emissions by approximately 1.1 billion metric tons and reduce oil consumption by up to two billion barrels over the lifetime of the vehicles sold under the program.

### ***CLEAN POWER PLAN AND NEW SOURCE PERFORMANCE STANDARDS FOR ELECTRIC GENERATING UNITS***

On October 23, 2015, the EPA published a final rule (effective December 22, 2015) establishing the carbon pollution emission guidelines for existing stationary sources: electric utility generating units (80 FR 64510–64660), also known as the Clean Power Plan. These guidelines prescribe how states must develop plans to reduce GHG emissions from existing fossil-fuel-fired electric generating units. The guidelines establish CO<sub>2</sub> emission performance rates representing the best system of emission reduction for two subcategories of existing fossil-fuel-fired electric generating units: (1) fossil-fuel-fired electric utility steam-generating units and (2) stationary combustion turbines. Concurrently, the EPA published a final rule (effective October 23, 2015) establishing standards of performance for GHG emissions from new, modified, and reconstructed stationary sources: electric utility generating units (80 FR 64661–65120). The rule prescribes CO<sub>2</sub> emission standards for newly constructed, modified, and reconstructed affected fossil-fuel-fired electric utility generating units. The U.S. Supreme Court stayed implementation of the Clean Power Plan pending resolution of several lawsuits. Additionally, in March 2017, President Trump directed the EPA Administrator to review the Clean Power Plan in order to determine whether it is consistent with current executive policies concerning GHG emissions, climate change, and energy.

On June 19, 2019, EPA issued the final Affordable Clean Energy (ACE) rule - replacing the prior administration's Clean Power Plan with a rule that restores rule of law, empowers states, and supports energy diversity. The ACE rule establishes emission guidelines for states to use when developing plans to limit carbon dioxide (CO<sub>2</sub>) at their coal-fired electric generating units (EGUs). On January 19, 2021, the D.C. Circuit vacated the ACE rule and remanded to the EPA for further proceedings consistent with its opinion.

### ***PRESIDENTIAL EXECUTIVE ORDER 13693***

Presidential Executive Order (EO) 13693, Planning for Federal Sustainability in the Next Decade, signed in 2015, seeks to maintain federal leadership in sustainability and greenhouse gas emission reductions. Its goal is to reduce agency Scope 1 and 2 GHG

emissions by at least 40 percent by 2025, foster innovation, reduce spending, and strengthen communities through increased efficiency and improved environmental performance. Sustainability goals are set for building efficiency and management, energy portfolio, water use efficiency, fleet efficiency, sustainable acquisition and supply chain greenhouse gas management, pollution prevention, and electronic stewardship.

#### ***PRESIDENTIAL EXECUTIVE ORDER 13834***

Presidential Executive Order 13834, Efficient Federal Operations, signed in May 2018, which revokes EO 13693. EO 13834 confirms that it is U.S. policy that federal agencies meet energy and environmental performance statutory requirements in order to increase efficiency, optimize performance, eliminate unnecessary use of resources, and protect the environment. Its goal is to achieve and maintain annual reductions in building energy use and implement energy efficiency measure that reduce costs. Reduce potable and non-potable water consumption and comply with stormwater management requirements. Utilize performance contracting to achieve energy, water, building modernization, and infrastructure goals.

#### ***PRESIDENTIAL EXECUTIVE ORDER 13783***

Presidential Executive Order 13783, Promoting Energy Independence and Economic Growth (March 28, 2017), revoked on January 2021, orders all federal agencies to apply cost-benefit analyses to regulations of GHG emissions and evaluations of the social cost of carbon, nitrous oxide, and methane.

### ***State***

#### ***CALIFORNIA AIR RESOURCES BOARD***

CARB is responsible for the coordination and oversight of State and local air pollution control programs in California. The CAAQS were established in 1969 pursuant to the Mulford-Carrell Act. These standards, included with the NAAQS, are generally more stringent and apply to more pollutants than the NAAQS. In addition to the criteria pollutants, CAAQS have been established for visibility-reducing particulates, hydrogen sulfide and sulfates.

The State of California legislature has enacted a series of bills that constitute the most aggressive program to reduce GHGs of any state in the nation. Some legislation, such as the landmark AB 32 California Global Warming Solutions Act of 2006, was specifically enacted to address GHG emissions. Other legislation, such as Title 24 building efficiency standards and Title 20 appliance energy standards, were originally adopted for other purposes such as energy and water conservation, but also provide GHG reductions. This section describes the major provisions of the legislation.

**EXECUTIVE ORDERS RELATED TO GHG EMISSIONS**

California's Executive Branch has taken several actions to reduce GHGs through the use of executive orders. Although not regulatory, they set the tone for the State and guide the actions of State agencies.

**EXECUTIVE ORDER S-3-05**

Executive Order S-3-05 was issued on June 1, 2005, which established the following GHG emissions reduction targets:

- By 2010, reduce greenhouse gas emissions to 2000 levels;
- By 2020, reduce greenhouse gas emissions to 1990 levels; and
- By 2050, reduce greenhouse gas emissions to 80 percent below 1990 levels.

The 2050 reduction goal represents what some scientists believe is necessary to reach levels that will stabilize the climate. The 2020 goal was established to be a mid-term target. Because this is an executive order, the goals are not legally enforceable for local governments or the private sector.

**Executive Order S-01-07**

Issued on January 18, 2007, Executive Order S-01-07 mandates that a statewide goal shall be established to reduce the carbon intensity of California's transportation fuels by at least 10 percent by 2020. In particular, the executive order established a Low Carbon Fuel Standard (LCFS) and directed the Secretary for Environmental Protection to coordinate the actions of the California Energy Commission, CARB, the University of California, and other agencies to develop and propose protocols for measuring the "life-cycle carbon intensity" of transportation fuels. CARB adopted the Low Carbon Fuel Standard on April 23, 2009.

**Executive Order S-13-08**

Issued on November 14, 2008, Executive Order S-13-08 facilitated the California Natural Resources Agency development of the 2009 California Climate Adaptation Strategy. Objectives include analyzing risks of climate change in California, identifying and exploring strategies to adapt to climate change, and specifying a direction for future research.

**Executive Order S-14-08**

Issued on November 17, 2008, Executive Order S-14-08 expands the State's Renewable Energy Standard to 33 percent renewable power by 2020. Additionally, Executive Order S-21-09 (signed on September 15, 2009) directs CARB to adopt regulations requiring 33 percent of electricity sold in the State come from renewable energy by 2020. CARB adopted the "Renewable Electricity Standard" on September 23, 2010, which requires 33 percent renewable energy by 2020 for most publicly owned electricity retailers.

**Executive Order S-21-09**

Issued on July 17, 2009, Executive Order S-21-09 directs CARB to adopt regulations to increase California's Renewable Portfolio Standard (RPS) to 33 percent by 2020. This builds upon SB 1078 (2002), which established the California RPS Program, requiring 20 percent renewable energy by 2017, and SB 107 (2006), which advanced the 20 percent deadline to 2010, a goal which was expanded to 33 percent by 2020 in the 2005 Energy Action Plan II.

**Executive ORDER B-30-15**

Issued on April 29, 2015, Executive Order B-30-15 established a California GHG reduction target of 40 percent below 1990 levels by 2030 and directs CARB to update the Climate Change Scoping Plan to express the 2030 target in terms of MMCO<sub>2e</sub>. The 2030 target acts as an interim goal on the way to achieving reductions of 80 percent below 1990 levels by 2050, a goal set by Executive Order S-3-05. The executive order also requires the State's Climate Adaptation Plan to be updated every three years and for the State to continue its Climate Change Research Program, among other provisions. With the enactment of SB 32 in 2016, the legislature codified the goal of reducing GHG emissions by 2030 to 40 percent below 1990 levels.

**Executive ORDER B-55-18**

Executive Order B-55-18, signed September 10, 2018, sets a goal "to achieve carbon neutrality as soon as possible, and not later than 2045, and achieve and maintain net negative emissions thereafter." Executive Order B-55-18 directs CARB to work with relevant State agencies to ensure future Scoping Plans identify and recommend measures to achieve the carbon neutrality goal. The goal of carbon neutrality by 2045 is in addition to other statewide goals, meaning not only should emissions be reduced to 80 percent below 1990 levels by 2050, but that, by no later than 2045, the remaining emissions be offset by equivalent net removals of CO<sub>2e</sub> from the atmosphere, including through sequestration in forests, soils, and other natural landscapes.

**Executive ORDER N-79-20**

Executive Order N-79-20, signed September 23, 2020, establishes a new statewide goal that 100 percent of in-State sales of new passenger cars and trucks will be zero-emission by 2035. It establishes a further statewide goal that 100 percent of medium- and heavy-duty vehicles in the State be zero-emission by 2045 for all operations where feasible and by 2035 for drayage trucks. It also establishes statewide goal to transition to 100 percent zero-emission off-road vehicle and equipment by 2035 where feasible.

**SENATE BILL 32 (CALIFORNIA GLOBAL WARMING SOLUTIONS ACT OF 2006: EMISSIONS LIMIT)**

Signed into law in September 2006 Senate Bill (SB) 32 codifies the 2030 GHG reduction target in Executive Order B-30-15 (40 percent below 1990 levels by 2030). The bill authorizes CARB to adopt an interim GHG emissions level target to be achieved by 2030.



CARB also must adopt rules and regulations in an open public process to achieve the maximum, technologically feasible, and cost-effective GHG reductions.

***AB 1493 (Pavley Regulations and Fuel Efficiency Standards)***

California AB 1493, enacted on July 22, 2002, required CARB to develop and adopt regulations that reduce GHGs emitted by passenger vehicles and light-duty trucks. Implementation of the regulation was delayed by lawsuits filed by automakers and by the U.S. EPA's denial of an implementation waiver. The U.S. EPA subsequently granted the requested waiver in 2009, which was upheld by the by the U.S. District Court for the District of Columbia in 2011. The regulations establish one set of emission standards for model years 2009–2016 and a second set of emissions standards for model years 2017 to 2025. By 2025, when all rules will be fully implemented, new automobiles will emit 34 percent fewer CO<sub>2</sub>e emissions and 75 percent fewer smog-forming emissions.

***Assembly Bill 32 (California Global Warming Solutions Act)***

Assembly Bill (AB) 32 instructs CARB to develop and enforce regulations for the reporting and verification of statewide GHG emissions. AB 32 directed CARB to set a GHG emissions limit based on 1990 levels, to be achieved by 2020. It set a timeline for adopting a Scoping Plan for achieving GHG reductions in a technologically and economically feasible manner.

***SB 375 (The Sustainable Communities and Climate Protection Act of 2008)***

Signed into law on September 30, 2008, SB 375 provides a process to coordinate land use planning, Regional Transportation Plans, and funding priorities to help California meet the GHG reduction goals established by AB 32. SB 375 requires metropolitan planning organizations to include Sustainable Community Strategies in their Regional Transportation Plans for reducing GHG emissions, aligns planning for transportation and housing, and creates specified incentives for the implementation of the strategies.

***SB 1368 (Emission Performance Standards)***

SB 1368 is the companion bill of AB 32, which directs the California Public Utilities Commission to adopt a performance standard for GHG emissions for the future power purchases of California utilities. SB 1368 limits carbon emissions associated with electrical energy consumed in California by forbidding procurement arrangements for energy longer than five years from resources that exceed the emissions of a relatively clean, combined cycle natural gas power plant. The new law effectively prevents California's utilities from investing in, otherwise financially supporting, or purchasing power from new coal plants located in or out of the State. The California Public Utilities Commission adopted the regulations required by SB 1368 on August 29, 2007. The regulations implementing SB 1368 establish a standard for baseload generation owned by, or under long-term contract to publicly owned utilities, of 1,100 lbs. CO<sub>2</sub> per megawatt-hour (MWh).

**SB 1078 and SBX1-2 (Renewable Electricity Standards)**

SB 1078 requires California to generate 20 percent of its electricity from renewable energy by 2017. SB 107 changed the due date to 2010 instead of 2017. On November 17, 2008, Governor Arnold Schwarzenegger signed Executive Order S-14-08, which established a Renewable Portfolio Standard target for California requiring that all retail sellers of electricity serve 33 percent of their load with renewable energy by 2020. Executive Order S-21-09 also directed CARB to adopt a regulation by July 31, 2010, requiring the State's load serving entities to meet a 33 percent renewable energy target by 2020. CARB approved the Renewable Electricity Standard on September 23, 2010 by Resolution 10-23. SBX1-2, which codified the 33 percent by 2020 goal.

**SB 350 (Clean Energy and Pollution Reduction Act of 2015)**

Signed into law on October 7, 2015, SB 350 implements the goals of Executive Order B-30-15. The objectives of SB 350 are to increase the procurement of electricity from renewable sources from 33 percent to 50 percent (with interim targets of 40 percent by 2024, and 25 percent by 2027) and to double the energy efficiency savings in electricity and natural gas final end uses of retail customers through energy efficiency and conservation.

**100 Percent Clean Energy Act**

In 2018, the 100 Percent Clean Energy Act (SB 100) was passed into law and it updates the goals of California's Renewable Portfolio Standard and SB 350, as discussed above, to the following: achieve 50 percent renewable resources target by December 31, 2026 and achieve a 60 percent target by December 31, 2030. SB 100 also requires that eligible renewable energy resources and zero-carbon resources supply 100 percent of retail sales of electricity to California end-use customers and 100 percent of electricity procured to serve all State agencies by December 31, 2045.

**CARB Scoping Plan**

CARB adopted the Scoping Plan to achieve the goals of AB 32. The Scoping Plan establishes an overall framework for the measures that would be adopted to reduce California's GHG emissions. CARB determined that achieving the 1990 emissions level would require a reduction of GHG emissions of approximately 29 percent below what would otherwise occur in 2020 in the absence of new laws and regulations (referred to as "business-as-usual"). The Scoping Plan evaluates opportunities for sector-specific reductions; integrates early actions by CARB and the State's Climate Action Team and additional GHG reduction measures by both entities; identifies additional measures to be pursued as regulations; and outlines the adopted role of a Cap-and-Trade Program. Additional development of these measures and adoption of the appropriate regulations occurred through the end of 2013. Key elements of the Scoping Plan include:

- Expanding and strengthening existing energy efficiency programs, as well as building and appliance standards;

- Achieving a statewide renewables energy mix of 33 percent by 2020;
- Developing a California Cap-and-Trade Program that links with other programs to create a regional market system and caps sources contributing 85 percent of California's GHG emissions (adopted in 2011);
- Establishing targets for transportation related GHG emissions for regions throughout California and pursuing policies and incentives to achieve those targets (several Sustainable Communities Strategies have been adopted);
- Adopting and implementing measures pursuant to existing State laws and policies, including California's Clean Car Standards, heavy-duty truck measures, the Low Carbon Fuel Standard (amendments to the Pavley Standard adopted 2009; Advanced Clean Car Standard adopted 2012), goods movement measures, and the Low Carbon Fuel Standard (adopted 2009); and
- Creating targeted fees, including a public goods charge on water use, fees on gasses with high global warming potential, and a fee to fund the administrative costs of the State of California's long-term commitment to AB 32 implementation (CARB, 2008).

In 2012, CARB released revised estimates of the expected 2020 emissions reductions. The revised analysis relied on emissions projections updated in light of current economic forecasts that accounted for the economic downturn since 2008, reduction measures already approved and put in place relating to future fuel and energy demand, and other factors. This update reduced the projected 2020 emissions from 596 million metric tons of CO<sub>2e</sub> (MMTCO<sub>2e</sub>) to 545 MMTCO<sub>2e</sub>. The reduction in forecasted 2020 emissions means that the revised business-as-usual reduction necessary to achieve AB 32's goal of reaching 1990 levels by 2020 is now 21.7 percent, down from 29 percent. CARB also provided a lower 2020 inventory forecast that incorporated State-led GHG emissions reduction measures already in place. When this lower forecast is considered, the necessary reduction from business-as-usual needed to achieve the goals of AB 32 is approximately 16 percent.

CARB adopted the first major update to the Scoping Plan on May 22, 2014. The updated Scoping Plan summarizes the most recent science related to climate change, including anticipated impacts to California and the levels of GHG emissions reductions necessary to likely avoid risking irreparable damage. It identifies the actions California has already taken to reduce GHG emissions and focuses on areas where further reductions could be achieved to help meet the 2020 target established by AB 32.

In 2016, the legislature passed SB 32, which codifies a 2030 GHG emissions reduction target of 40 percent below 1990 levels. With SB 32, the legislature passed companion legislation, AB 197, which provides additional direction for developing the Scoping Plan. On December 14, 2017 CARB adopted a second update to the Scoping Plan. The 2017 Scoping Plan details how the State will reduce GHG emissions to meet the 2030 target set by Executive Order B-30-15 and codified by SB 32. Other objectives listed in the 2017 Scoping Plan are to provide direct GHG emissions reductions; support climate investment in disadvantaged communities; and support the Clean Power Plan and other federal actions.

### **California Regulations and Building Codes**

California has a long history of adopting regulations to improve energy efficiency in new and remodeled buildings. These regulations have kept California's energy consumption relatively flat even with rapid population growth.

#### **TITLE 24 BUILDING ENERGY EFFICIENCY STANDARDS**

California's Energy Efficiency Standards for Residential and Non-residential Buildings (Cal. Code Regs. tit. 24, Part 6), were first adopted in 1978 in response to a legislative mandate to reduce California's energy consumption. The standards are updated periodically to allow consideration and possible incorporation of new energy efficient technologies and methods. Energy efficient buildings require less electricity; therefore, increased energy efficiency reduces fossil fuel consumption and decreases GHG emissions. The 2016 Building Energy Efficiency Standards approved on January 19, 2016, went into effect on January 1, 2017. The 2019 Building Energy Efficiency Standards were adopted on May 9, 2018, and take effect on January 1, 2020. Under the 2019 standards, homes will use about 53 percent less energy and non-residential buildings will use about 30 percent less energy than buildings under the 2016 standards.

#### **TITLE 24 CALIFORNIA GREEN BUILDING STANDARDS CODE**

The California Green Building Standards Code (Cal. Code Regs. tit. 24, Part 11) commonly referred to as the CALGreen Code, is a statewide mandatory construction code developed and adopted by the California Building Standards Commission and the Department of Housing and Community Development. The CALGreen standards require new residential and commercial buildings to comply with mandatory measures under the topics of planning and design, energy efficiency, water efficiency/conservation, material conservation and resource efficiency, and environmental quality. CALGreen also provides voluntary tiers and measures that local governments may adopt that encourage or require additional measures in the five green building topics. The most recent update to the CALGreen Code went into effect January 1, 2017.

#### **DEPARTMENT OF WATER RESOURCES CLIMATE ACTION PLAN**

GHG emissions resulting from the use of SWP facilities have been analyzed by DWR, but this analysis only applies to the portion of the project involving use of SWP facilities and does not include the power needs or GHG emissions associated with power provided by WAPA or the use of federal facilities or other non-SWP facilities. In July 2020, DWR updated the adopted the *DWR Climate Action Plan-Phase I: Greenhouse Gas Emissions Reduction Plan* (GGERP), which details DWR's efforts to reduce its greenhouse gas (GHG) emissions consistent with Executive Order S-3-05 and the Global Warming Solutions Act of 2006 (AB 32). DWR also adopted the Initial Study/Negative Declaration prepared for the GGERP in accordance with the CEQA Guidelines review and public process. DWR updated its GGERP in 2020 to revise DWR's mid-term and long-term GHG emissions reduction goals and to review its GHG emissions reduction strategies, in the context of recent legislative, regulatory, policy, and

market changes. The GGERP, Update 2020 is available at: <https://water.ca.gov/Programs/All-Programs/Climate-Change-Program/Climate-Action-Plan>.

The GGERP provides estimates of historical (back to 1990), current, and future GHG emissions related to operations, construction, maintenance, and business practices (e.g. building-related energy use). Update 2020 specifies aggressive 2030 and 2045 emission reduction goals and identifies a list of GHG emissions reduction measures to achieve these goals.

DWR specifically prepared its GGERP as a “Plan for the Reduction of Greenhouse Gas Emissions” for purposes of CEQA Guidelines Section 15183.5. That section provides that such a document, which must meet certain specified requirements, “may be used in the cumulative impacts analysis of later projects.” Because global climate change, by its very nature, is a global cumulative impact, an individual project’s compliance with a qualifying GHG Reduction Plan may suffice to mitigate the project’s incremental contribution to that cumulative impact to a level that is not “cumulatively considerable.” (See CEQA Guidelines, Section 15064, subd. [h][3].)

DWR and agencies using DWR facilities that are covered by the GGERP may rely on the GGERP in the cumulative impacts analyses of later project-specific environmental documents. “An environmental document that relies on a Greenhouse Gas Reduction Plan for a cumulative impacts analysis must identify those requirements specified in the plan that apply to the project, and, if those requirements are not otherwise binding and enforceable, incorporate those requirements as mitigation measures applicable to the project.” (CEQA Guidelines Section 15183.5, subd. [b][2].)

### ***SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT***

SJVAPCD is the primary agency responsible for addressing air quality concerns in the Central Valley. SJVAPCD recommends methods for analyzing project generated GHGs in CEQA analyses and offers multiple potential GHG reduction measures for land use development projects. SJVAPCD has developed thresholds of significance to provide a uniform scale to measure the significance of GHG emissions from land use and stationary source projects in compliance with CEQA and AB 32. SJVAPCD’s goals in developing GHG thresholds include ease of implementation; use of standard analysis tools; and emissions mitigation consistent with AB 32.

### ***Local***

#### ***KERN COUNTY***

In Kern County, the Kern Council of Governments (COG) is conducting two climate change projects: The Region Energy Action Plans (Kern REAP) project and the development of GHG inventories. The scope of work for these projects includes:

- A complete GHG inventory for municipal operations;
- A Regional Energy Action Plan (REAP) template focusing on municipal operations;
- Tools for conducting cost/benefit analysis of energy efficiency opportunities;
- Municipal EAPs for each participating jurisdiction;
- Municipal Energy Efficiency Savings Analysis for Annual GHG Inventories; and
- Regional Information Sharing Plan.

The final EAPs will include actionable policies (e.g., green building ordinance, retro-commissioning policies), as well as specific energy conservation measures that are appropriate for municipal facilities. To date, specific GHG reduction goals for irrigation or water users are not included.

### ***FRESNO COUNTY***

Fresno County has completed a GHG inventory. Specific GHG emission reduction targets have not been developed.

### ***KINGS COUNTY***

Kings County Association of Governments is in the process of developing a voluntary Regional Climate Action Plan (CAP) that will evaluate greenhouse gas emissions by sector and will outline strategies businesses, citizens, and local governments can voluntarily use to lower their overhead costs while simultaneously reducing greenhouse gas emissions. A draft Regional Climate Action Plan has been prepared that identifies cost-effective measures to reduce GHG emissions from activities within Kings County. The CAP is voluntary, and it does not specify GHG emission limits or targets for water suppliers or users (KCAG, 2014).

### ***TULARE COUNTY***

Tulare County has developed a Climate Action Plan. The plan identifies voluntary measures for agriculture, such as use of reclaimed wastewater, smart irrigation systems such as drip and micro sprinkler systems, and water well efficiency upgrades. It also identifies additional GHG emission reduction measures that require additional investigation, including best management practices in agriculture and animal operations to reduce emissions, conserve energy and water, and utilize alternative energy sources, including biogas, wind and solar. The plan does not specify GHG emission limits or targets for water suppliers or users.

Based on the preceding discussion, there are no regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction plans or mitigation of GHG emissions that would apply to the proposed Project.

#### 4.3.4 - IMPACTS AND MITIGATION MEASURES

##### **Methodology**

The impact analysis considers whether the proposed Project would result in an increase in direct GHG emissions from such factors as operation of construction equipment or passenger vehicle trips. It also considers the potential for an increase in indirect GHG emissions to increase from the generation of electricity used for the proposed Project operations.

Although climate change is expected to affect water supplies and demands in the Central Valley over time, it would not change the impact analysis in this DEIR, because the proposed Project would not result in a change in water supplies, water demand, or the regulatory environment that controls deliveries. Additionally, more unstable water supplies in the future would lead to a greater need for the proposed Project. The overall effects of climate change on the CVP and SWP water supplies are being investigated in ongoing water supply studies by DWR and Reclamation. Thus, the impacts of climate change on the proposed Project are not considered further.

##### **POTENTIAL GHG SOURCES**

The energy intensity of water used for agriculture in California is based on the volume of water transported, the distance, and the changes in topography along its route (California Energy Commission, 2005). Energy consumed for agriculture varies depending on a number of factors. During a wetter-than-average year, the volume of surface water deliveries will be higher, and the energy used for groundwater pumping will decrease.

During dry years or several back-to-back dry years, additional energy will be used because of increased on-farm groundwater pumping to offset reduced surface water supplies. The predominant form of energy used to convey and use agricultural water in California is electricity used for pumping. Historically, electricity has made up about 91 percent of all agricultural water energy demand, with diesel (8 percent) and natural gas (1 percent) contributing much smaller amounts (California Polytechnic State University, 2003). Changes to air quality regulations in agricultural regions is also leading to conversion of many diesel-powered pumps to electric pumps, so the electricity demand is likely even greater today. GHG emissions associated with electricity demand for pumping was therefore used to evaluate GHGs for the proposed Project. The proposed Project involves three principal components that have the potential to generate GHGs as a result of conveyance pumping, groundwater pumping, and on-farm pumping to power irrigation systems. These components are:

- **Delta Delivery.** Delivery of CV Contractors CVP water supply from the Sacramento/San Joaquin Delta to the California Aqueduct and Delta Mendota Canal.
- **SWP Transport.** Transport of CV Contractor CVP water by the DWR via California aqueduct.
- **End Use.** Transport and delivery of “exchange” water to CV Contractors and use at CV Contractor farms.

Table 4.3-1 summarizes these potential GHG sources, and each is further discussed as follow.

**Table 4.3-1  
Potential GHG Emissions from CV Contractor Water Deliveries**

Water Supply	Agency or Entity	Delivery Mechanism	Power Source	GHG Mitigation or Offsets	Net GHG Increase?
Delta	Bureau of Reclamation	Harvey O. Banks & Jones Pumping Plants	CVP Hydroelectric	None needed	No
California Aqueduct	DWR	Dos Amigos Pumping Plant	CVP Hydroelectric	100% offset by 2045 as per DWR GHG Reduction Plan (DWR 2020)	No
End Use by CV Contractors	Released to CV Contractors by Exchange Entities	<p><b>Surface Water</b> Friant-Kern Canal, Millerton Lake, SWP water, Non-CVP water, local supplies (eastside reservoirs)</p> <p><b>Groundwater</b> Electric Pumps</p>	Principally electricity from grid, with some local diesel pumps	No	Yes

- Delta Delivery.** CVP water is delivered by Reclamation to the Delta and pumped for this Project at the Banks Pumping Plant into the California Aqueduct. Water is also exported by Reclamation for other CVP uses form the southern Delta into the DMC at the Jones Pumping Plant. CVP-generated hydroelectric power is used at the Banks and Jones Pumping Plant to pump the CVC water. Because no fossil fuels are used to generate this power, there are no net GHG emissions associated with this pumping.
- SWP Transport.** As discussed above, DWR has developed a Climate Action Plan (the GGERP) to reduce the GHG emissions associated with the use of energy to operate the SWP facilities. Based on the analysis provided in the DWR GGERP, GHG emissions associated with the use of SWP facilities for this Project will not constitute a cumulatively considerable contribution to atmospheric levels of GHG emissions and are, therefore, less than significant. The power for the Dos Amigos Pumping Plant when pumping water for this Project will come from CVP hydroelectric power, which is a zero-emissions energy source.
- End Use.** The CV Contractors obtain water by means of banking and exchange agreements with other water storage districts or agencies. Some of this water is derived from groundwater pumping and some from surface water sources. Water is transported to individual farms, where additional pumping may be needed in order to power spray irrigation systems. Individual farms may also have private wells and pump groundwater.

**GHG EMISSIONS**

DWR only pumps and conveys CVC water through the Aqueduct if and when SWP contractor requirements have been met and there is surplus capacity in the Aqueduct. While the CV



Contractors have a maximum potential supply of 128,300 af, because of water availability and other constraints, typical CVP deliveries to CV Contractors are substantially less, and may be zero. Because of this wide variability, along with variable groundwater pumping and end-use applications, it is not possible to derive a single GHG emissions estimate. Therefore, this analysis estimates the average, and maximum, GHG emissions that could be associated with the proposed Project.

To evaluate potential end-use GHG emissions, information was assembled for the DWR modified evapotranspiration (ET<sub>o</sub>) zones that each of the seven CV Contractors fall into. Based on historical records for the areas in which CV Contractor water is used, about 60 percent of applied irrigation water is delivered from irrigation district surface water sources, 38 percent from on-farm groundwater pumping, and three percent from irrigation district groundwater pumping (California Polytechnic State University, 2003).

Historical data for each zone were assembled to define the annual energy demand (KWh/af/yr) for each of the CV Contractors, including irrigation district surface water, irrigation district groundwater, and on-farm groundwater pumping. In addition, the energy demand associated with on-farm booster pumping to power spray and other irrigation systems was identified for each of the CV Contractor zones. To provide a range of GHG emissions, the average annual delivery and maximum (contract maximum) water deliveries were tabulated (from Table 4.3-2) for each CV Contractor. Using the historical mix between surface and groundwater, along with the annual energy demand for each, the estimated energy use was calculated. Based on applicable utility conversion factors, the GHG emissions for average and maximum deliveries were estimated for each CV Contractor. Table 4.3-2 presents a summary of the analysis.

**Table 4.3-2  
Estimated GHG Emissions**

CV Contractor	Water Deliveries		Total GHG Emissions	
	Average (af/yr)	Contract Maximum (af/yr)	Average Deliveries (MT CO <sub>2e</sub> /yr)	Contract Deliveries (MT CO <sub>2e</sub> /yr)
County of Fresno	692	3,000	36	158
Hills Valley Irrigation District	1085	3,346	72	223
Kern-Tulare Water District	7,954	53,300	419	2,805
Lower Tule River Irrigation District	7,844	31,102	981	3,888
Pixley Irrigation District	7,485	31,102	499	2,073
Tri-Valley Water District	324	1,142	22	76
County of Tulare	1,534	5,308	81	279
<b>Totals</b>	<b>26,918</b>	<b>128,300</b>	<b>2,109</b>	<b>9,503</b>

Notes:

CO<sub>2e</sub> = CO<sub>2</sub> equivalent  
MT = metric tons

Based on water deliveries for average conditions, end-use GHG emissions are estimated to be about 2,109 metric tons (MT) CO<sub>2e</sub> per year. If all CV Contractors received their maximum water allotments, end-use GHG emissions are estimated to be about 9,503 MT CO<sub>2e</sub> /yr.

### ***Thresholds of Significance***

In accordance with CEQA, the effects of a project are evaluated to determine if they will result in significant adverse impact on the environment. The criteria used to determine the significance of an impact to greenhouse gas emissions are based on the Environmental Checklist in Appendix G of the CEQA Guidelines as identified below. Accordingly, greenhouse gas impacts resulting from the proposed Project are considered significant if the Project would:

- a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact of the environment.
- b) Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases.

### **Impact 4.3-1: Generate Greenhouse Gas Emissions, Either Directly or Indirectly, That May Have a Significant Impact on the Environment**

The proposed Project includes two components for each CV Contractor:

- The approval and execution of a contract with Reclamation that converts, pursuant to the WIIN Act, the CV Contractor's existing water supply contract for CVP water to a repayment contract authorizing prepayment of outstanding CVP construction costs; and
- The approval and execution of a contract with Reclamation and DWR that renews the terms of an existing contract for the conveyance of the CV Contractor's CVP water until 2035.

The proposed conversion of the existing CVP contracts under the WIIN Act, and renewal and updating the conveyance provisions of the existing contracts into separate conveyance contracts, will allow the CV Contractors to continue receiving CVP water in the manner consistent with current and historical practices.

No changes over current conditions would occur. No construction would be required, nor would the number of vehicle trips increase over current levels. The conveyance of CVP water to the CV Contractors and potential exchange partners would continue to be implemented via gravity flow and/or pumping using electric motors. Electricity demand for pumping would produce GHG emissions. As discussed above, if all CV Contractors received their maximum water allotments, end-use GHG emissions are estimated to be 9,503 MT CO<sub>2e</sub>/yr. Under the historical average deliveries, the end-use GHG emissions are estimated to be 2,109 MT CO<sub>2e</sub>/yr.

There are no established GHG emission limits for irrigation districts or water users. To put the potential CV Contractor GHG emission levels into perspective, under the USEPA's Greenhouse Gas Reporting rule, mandatory reporting of GHG emissions is required for large GHG sources, which are considered to be 25,000 MT/yr or greater. Similarly, under California's Cap-and-Trade Program, enforced by the ARB, "major GHG-emitting sources" (25,000 MT/yr or greater) are required to offset their GHG emissions. The proposed Project's estimated maximum GHG emissions (9,503 MT/yr) are less than half of this benchmark defining a major source and are just over 10 percent of this benchmark under average conditions. Since the proposed Project is the continuation of existing contracts, impacts related to GHGs would remain unchanged.

The proposed Project will continue to use SWP facilities to convey and store water. The energy associated with the operation of these facilities that is not provided by Reclamation's hydropower facilities, if any, will likely result in the emission of GHGs. However, DWR as part of the analysis provided in the GGERP has fully described and analyzed the potential for GHG emissions from operations associated with use of SWP facilities to convey and store water and has committed to overall near-term and long-term GHG emissions reductions that will ensure that no significant environmental impact will occur as a result of DWR's emissions. Based on the analysis provided in the DWR GGERP, GHG emissions associated with the use of SWP facilities for this Project will not constitute a cumulatively considerable contribution to atmospheric levels of GHG emissions and are, therefore, less than significant.

Therefore, the proposed Project would not result in direct or indirect GHG impacts. No impact would occur, and no mitigation is required.

#### **MITIGATION MEASURES**

No mitigation measures are required.

#### **LEVEL OF SIGNIFICANCE**

*No impact.*

#### **Impact 4.3-2: Conflict with Any Applicable Plan, Policy or Regulation of an Agency Adopted for the Purpose of Reducing the Emissions of Greenhouse Gases**

The proposed renewal of the conveyance contracts and conversion of the CVP contracts, if signed, will allow DWR and Reclamation to continue to convey water to the CV Contractors in the same manner as it has done in the past. The proposed Project would not generate any additional GHG emissions and has been analyzed under adopted GHG Reduction Plans. Therefore, the proposed Project would not conflict with any applicable plan, policy or regulation of an agency adopted for the purposes of reducing GHG emissions. No impact would occur, and no mitigation is required.

#### **MITIGATION MEASURES**

No mitigation measures are required.

**LEVEL OF SIGNIFICANCE**

*No impact.*

**Cumulative Setting Impacts and Mitigation Measures****CUMULATIVE IMPACTS**

No quantitative GHG thresholds of significance applicable to the proposed Project have been established at the federal, State, or local levels. The impact analysis determining whether the proposed Project would generate GHG emissions that may have a significant impact on the environment is based on the SJVAPCD's guidance for determining whether project specific GHG emissions would have a significant effect. The guidance is based on the premise that the effects of project specific GHG emissions are cumulative, and unless reduced or mitigated, their incremental contribution to global climate change could be considered cumulatively considerable. The proposed Project would continue to produce the same GHG impacts as the baseline conditions. Since there are no new GHG impacts associated with the proposed Project and emissions from SWP facilities analyzed under the DWR GCERP have been determined to not constitute a cumulatively considerable contribution to atmospheric levels of GHG emissions, cumulative impacts associated with GHG emissions are less than significant.

**MITIGATION MEASURES**

No mitigation measures required.

**CUMULATIVE LEVEL OF SIGNIFICANCE**

Cumulative impacts would be *less than significant*.

## **4.4 - Hydrology and Water Quality**

### **4.4.1 - INTRODUCTION**

This section addresses hydrology and water quality impacts that are associated with the Project. The following discussion addresses existing environmental conditions in the affected environment, evaluates the proposed Project's consistency with applicable goals and policies, identifies and analyzes environmental impacts, and recommends measures to reduce or avoid adverse impacts anticipated from proposed Project implementation.

A description of the environmental setting (affected environment) for hydrology and water quality is presented below in Section 4.4.2, *Environmental Setting*, including discussion of water supply and service providers. The regulatory setting applicable to the Project is presented in Section 4.4.3, *Regulatory Setting*, while the Project impacts and associated mitigation measures are analyzed in Section 4.4.4, *Impacts and Mitigation Measures*.

### **4.4.2 - ENVIRONMENTAL SETTING**

For the purpose of defining the affected surface water environment of the proposed Project, the Project Area is generally defined as the eastern SJV, including the conveyance system facilities and the service areas of the CV Contractors, as well as the areas that could receive water under the proposed Project (as described Chapter 3 of this DEIR). The CVC is a water conveyance facility in the southern SJV that extends from the Aqueduct near Tupman, east to the FKC and beyond. The CVC can convey water to the CV Contractors' turnouts along the FKC, on the east side of the SJV. The CV Contractors are located within Fresno, Kings, Tulare, and Kern counties. DWR operates the SWP, with facilities available for conveyance of CVP water for CV Contractors when unused capacity is present, located in Central California from Clifton Court Forebay south to the Aqueduct's connection with the CVC.

#### **Hydrologic Area Climate**

The SJV is that portion of the Central Valley south of the Delta. The climate is arid-to-semiarid hot, Mediterranean. Precipitation during an average year ranges from five to 18 inches in the SJV, generally increasing from south to north and west to east. Dramatic deviations from average climatic conditions are manifested as droughts or floods. Most of the Central Valley is prone to flooding. About 85 percent of the precipitation falls during November through April. The SJV is hot and dry during the summer, and cool and damp in the winter, when the area frequently is covered by a ground ("tule") fog. Reference evapotranspiration (ET<sub>o</sub>) is relatively high, and ranges from 49 inches in the northern SJV to 56 inches in the south. Because of these arid conditions, most of the valley is in a state of perennial water deficiency (Faunt, 2009).

#### **Surface Water - Rivers and Lakes**

The SJV is bounded to the north by the Delta, to the west by the Coast Ranges, to the east by the Sierra Nevada, and to the south by the Tehachapi Mountains. DWR (2009a) divides the

SJV into two hydrologic regions, the San Joaquin River Hydrologic Region (SJRHR) in the north and the Tulare Lake Hydrologic Region (TLHR) in the south. The regions are generally separated by merging alluvial fans (near the Kings River) that form a low drainage divide. The dominant river in the SJRHR is the San Joaquin River, which flows southwestward through the Sierra Nevada then northwestward (to the Delta) through the axis of the SJV. Major tributaries to the San Joaquin River that drain the Sierra Nevada include the Stanislaus, Tuolumne, and Merced rivers.

Within the TLHR, the rivers flowing southwestward out of the Sierra Nevada (including from north to south: Kings, Kaweah, Tule, White, and Kern rivers) flow to sinks (or depressions) in the middle of the SJV. These depressions were historically occupied by shallow lakes, including Tulare, Kern, and Buena Vista lakes. Although the lakes have generally been drained and converted to agriculture and a large portion of the river flows are diverted for agricultural and urban use, these areas frequently flood during high runoff events.

### **Surface Water Conveyance Facilities**

The CV Contractors are not proposing any changes in water deliveries or use of the water as compared to existing conditions under the proposed Project. The CVP water is delivered and used for the irrigation of agricultural areas and for M&I uses. The largest use of CVP water is for agricultural irrigation of row crops, orchards, vineyards, irrigated pasture, and various other agricultural uses. The greatest demand for irrigation water occurs in mid- to late summer, as crops mature and crop water use increases. During the winter, farmers also use water for frost control and pre-irrigation of fields to saturate the upper soil as well as for irrigation of permanent crops.

The primary components of the conveyance system are the CVP facilities (including the Jones Pumping Plant, the DMC, and the FKC); the SWP facilities (including Clifton Court Forebay and the Aqueduct); the joint federal/State San Luis Canal and San Luis Reservoir; and the CVC. The water use service areas of the seven CV Contractors are generally located along the east and west sides of the FKC. These facilities are more fully discussed in Section 3.3.2 entitled "Central Valley Project Water Facilities."

### **Cross Valley Canal Contractors' Water Use**

The CV Contractors' water service areas receive water from the CVP, other non-CVP surface water sources, and groundwater. CV Contractors' contracts for CVP water are outlined in Section 3.2.2 entitled "Cross Valley Contractors' CVP Contracts."

KTWD provides irrigation water to over 19,431 acres of high-value permanent crops in Kern and Tulare counties. The annual irrigation demand is approximately 40,000 af (2.2 af/acre) of imported KTWD water. The remaining 14,000 af per year (0.8 af/acre) is from groundwater pumped by water users. There are four regulating reservoirs in KTWD's service area totaling 1166 af of storage.

The water supplies for the LTRID are groundwater, water rights on the Tule River, and CVP water. The Tule River flows approximately 22 miles through the central part of the LTRID and supplies approximately 70,000 af per year. The LTRID does not own or control groundwater extraction facilities; therefore, each landowner must provide privately owned wells to sustain irrigation during periods when the LTRID does not have enough surface water available.

The PXID's water supply is derived from groundwater, diversions from Deer Creek, and purchased CVP water. The PXID currently contains 69,550 acres of which 48,302 are irrigated. Deer Creek flows westerly through the entire length of the PXID. Similar to LTRID, PXID does not own or operate any groundwater facilities; however, groundwater is the primary water supply source available to lands within the PXID. Approximately 31,957 acres of land rely on groundwater pumping for irrigation.

The County of Fresno has a CVP water service contract for up to 3,000 af of water which the County currently supplies to one subcontractor (County Service Area #34) for M&I purposes. This subcontractor draws their water directly from Millerton Lake after their CV Delta supply has been exchanged for Friant supplies.

The County of Tulare has a CVP water service contract for up to 5,308 af of which the County supplies to 10 subcontractors (Alpaugh ID, Atwell Island WD, Hills Valley ID, City of Lindsay, Saucelito ID, Frasinetto Farms LLC, Stone Corral ID, Strathmore Public Utility District, Styrotek, Inc., and City of Visalia) (U.S. Bureau of Reclamation, 2010).

The HVID receives up to 2,913 af per year of CVP water under its contract with the County of Tulare. Currently, the HVID comprises 19,453 acres of which 19,057 are irrigated. The HVID has five individual water users that have rights in Poplar Irrigation Company of 9.5 shares at 55 af per share from Mole Ditch.

The Tri-Valley Water District (TVWD) has approximately 1,840 irrigable acres. The TVWD has a contract with Reclamation to receive up to 1,142 af for irrigation and M&I uses (U.S. Bureau of Reclamation, 2010).

### **Groundwater - Quality**

The primary source of groundwater is the unconfined, semi-confined, and confined aquifers within the upper 1,000 ft of alluvial sediments. Three general hydrogeologic units have been identified in these sediments. Coast Range alluvium extends from the west and merges with the Sierra Nevada alluvium near the SJV trough. These relatively coarse-grained (silts, sands, and gravels) unconsolidated sediments range in thickness from less than 10 ft at the valley margins to over 800 ft in the axis of the SJV. Flood-basin deposits consists of relatively fine-grained sediments (silts and clays) lie along and beneath the valley trough. The thickness of this unit can be up to 35 ft (Faunt, 2009). Notably, the sediments include a relatively thick (up to 200 ft) and continuous, low permeability clay layer, the Corcoran Clay, which divides the groundwater flow into an upper semi-confined aquifer and a lower confined aquifer. Prior to development of the valley, the surface water flows and subsurface flows from the

adjacent uplands were the primary source of recharge for aquifers. Underdeveloped conditions, deep infiltration of irrigation water is the primary source of recharge with additional recharge from streams and agricultural ditches and precipitation.

These alluvial deposits form a groundwater basin, referred to as the San Joaquin Valley Basin (SJVB), which provides groundwater resources for agriculture, industrial, and municipal uses. The aquifers of the SJVB are recharged by a combination of runoff and subsurface flow originating in the Sierra Nevada and, to a lesser extent, the Coast Range and infiltration of precipitation and applied irrigation water. The northern portion of SJVB is referred to as the San Joaquin River Basin and the southern portion as the Tulare Lake Basin. The SJVB is further subdivided into distinct subbasins. Six of these subbasins could be affected by the proposed Project: Madera, Kings, Kaweah, Tulare Lake, Tule, and Kern County subbasins. The characteristics of the subbasins are summarized in Table 4.4-1.

In general, groundwater quality throughout the region is suitable for most urban and agricultural uses with only local impairments (see Table 4.4-1). The primary constituents of concern are high total dissolved solids (TDS), nitrate, arsenic, and organic compounds. High TDS levels are found in areas along the west side of the SJV and in the trough of the valley. On the west side of the valley, high TDS content is related to recharge of the aquifers by surface flow originating from areas of the Coast Range underlain by marine sediments. High TDS content in the trough of the valley is related to infiltration of surface waters with high concentration of salts resulting from evaporation and poor drainage. In areas where the Corcoran Clay confining layer is present, water quality is generally better in water-bearing units beneath the clay than in units above it.

**Table 4.4-1  
Summary of Groundwater Subbasin Characteristics**

Subbasin Name	Area (acres)	Range of Well Depths (ft)	Range of Well Yields (gal/min)	Groundwater Storage <sup>2</sup> (acre-feet)	General Water Quality Type	Typical Total Dissolved Solids (TDS) (mg/L)	Water Quality Impairments
Madera	394,000	100-600	750-2,000	24,000,000	Calcium-Sodium bicarbonate	100-400	High hardness, iron, nitrate, chloride
Kings	976,000	100-500	500-1,500	93,000,000	Bicarbonate	200-700	DBCP and nitrates in eastern portion; elevated fluoride, boron and sodium in localized areas
Kaweah	446,000	100-500	100-500	34,000,000	Calcium-Sodium bicarbonate	300-600	Localized elevated nitrates in eastern portion; high salinity in localized areas



Subbasin Name	Area (acres)	Range of Well <sup>1</sup> Depths (ft)	Range of Well Yields (gal/min)	Groundwater Storage <sup>2</sup> (acre-feet)	General Water Quality Type	Typical Total Dissolved Solids (TDS) (mg/L)	Water Quality Impairments
Tulare Lake	524,000	150-2,000	300-1,000	37,000,000	Calcium-Sodium bicarbonate	200-600	High salinity in shallow waters of southern portion; hydrogen sulfide near Hanford; localized areas of high arsenic
Tule	467,000	200-1,400	50-3,000	33,000,000	Calcium-Sodium bicarbonate	200-600	High salinity in shallow waters of western portion; localized areas
Kern County	1,950,000	150-1,200	200-4,000	40,000,000	Calcium bicarbonate (east) Calcium-Sodium sulfate (west)	400-450	High TDS, sodium chloride, and sulfate in shallow waters; arsenic, Nitrate, DBCP, and EDB above MCLs

Source: DWR 2003

Notes:

<sup>1</sup> Municipal and irrigation wells

<sup>2</sup> Estimated storage to a depth of 1,000 ft.

mg/L = milligrams per liter

Of particular concern, elevated selenium levels occur in shallow groundwater in portions of the SJV. The impact of trace element selenium in agricultural drain water in the western SJV has been extensively evaluated, since high selenium concentrations entering Kesterson Reservoir from agricultural drain water were recognized in 1983. The elevated selenium levels were apparently responsible for the high mortality rates in birds at the Kesterson Reservoir. Shallow groundwater selenium concentrations resulting from leaching of soil salts and concentration of dissolved solids by evapotranspiration can be as high as several thousand micrograms per liter.

Nitrates may occur naturally or as a result of disposal of human and animal waste products and fertilizer. Areas of high nitrate concentrations are known to exist near the Town of Shafter and other isolated areas in the SJV. Elevated arsenic levels have been reported in the Tulare Lake, Kern Lake and Buena Vista Lakebed areas. Two general sources of organic contaminants are present in the valley. Agricultural pesticides and herbicides have been detected throughout the SJV, but primarily along the east side where soil permeability is higher and depth to groundwater is shallower. The most notable agricultural contaminant is dibromochloropropane (DBCP), a now-banned soil fumigant. Industrial organic contaminants include common solvents such as trichloroethylene and dichloromethane.

## **Groundwater - Quantities**

Collectively, groundwater basins are the State's largest reservoir, 10 times the size of all its surface reservoirs combined. Groundwater is an important water supply for agricultural and urban uses in the Tulare Basin. The 2005–2010 average annual total water supply for the Tulare Lake Hydrologic Region, based on planning areas boundaries, is estimated at 11.6 million acre-feet. Water demands in the region are met through a combination of local surface water supplies, State (SWP) and federal (CVP) surface water deliveries, groundwater, and reused/recycled water supplies. Groundwater contributes about 53 percent (6.2 million acre-feet) of the 2005–2010 average annual total water supply for the Tulare Lake region. Groundwater extraction in the region accounts for 38 percent of all groundwater pumping in California (DWR, 2015).

As a result, between spring 2005 and spring 2010, the water table in the San Joaquin Valley portion of the Tulare Lake region declined by an average of 17.4 feet, which represented a loss of groundwater in storage between 3.6 million acre-feet and 8.8 million acre-feet (DWR, 2015). The condition when groundwater is extracted at rate that exceeds recharge is generally referred to as "overdraft." The estimated hydraulic head (a measure of groundwater levels) within the aquifer has declined as much as 0 to 120 ft in the eastern portion of the Tulare Basin (Faunt, 2009). The rate of decline in hydraulic head has decreased dramatically relative to the historical period up to 1961 when declines of up to 300 ft occurred. The decrease in the rate of decline is generally attributed to increased delivery of surface water to the Tulare Basin. Between 2002 and 2010, annual groundwater extraction in the Tulare Lake region range bet 3.5 million acre-feet in 2005 and 8.7 million acre-feet in 2009 and contributed between 32 percent and 70 percent of the annual water supply (DWR, 2015).

Between 2000–2019, the San Joaquin Valley has been in critically dry water year type five years, dry five years, below normal three years, above normal two years, and wet five years. During this time, groundwater resources provided an increasing percentage of California's water supply (DWR, 2020).

Historically, there have been two basin prioritization projects: 2014 CASGEM Basin Prioritization and SGMA 2015 Basin Prioritization. The latest basin prioritization project, SGMA 2019 Basin Prioritization, was completed in December 2019. SGMA 2019 Basin Prioritization was based on the same technical process as the previous basin prioritization efforts with minor updates to meet changes to the statute included in the SGMA legislation.

Ninety-four basins and/or subbasins were identified as medium or high priority through the basin prioritization technical process and will be required to form GSAs and develop GSPs. These 94 basins, in combination with adjudicated areas which have existing governance and oversight in place, account for 98 percent of the pumping (20 million acre-feet), 83 percent of the population (25 million Californians), and 88 percent of all irrigated acres (6.7 million acres) within the State's groundwater basins. Twenty-one of these basins were previously identified as Critically Overdrafted (DWR, 2021).

### **Groundwater - Subsidence**

One potential result of groundwater overdraft and the decline in hydraulic head is land subsidence. Significant reductions in groundwater levels (or hydraulic head) can result in permanent and irreversible compression or consolidation of sediments within the aquifer(s). The loss of volume can result in the subsidence of the land surface. Subsidence has occurred historically and is continuing in many areas in California, most notably in the San Joaquin, Antelope, Coachella, and Sacramento valleys (DWR, 2014c).

Since development of the SJV, up to 30 ft of subsidence has occurred in the western portion of the SJV during the period 1926 to 1970, mostly the result of groundwater withdrawal (Ireland, R.F., 1986). The rates of subsidence decreased significantly in the 1970s as increased surface water deliveries resulted in decreased groundwater pumping. However, periods of drought (e.g., 1976–1977 and 1987–1992) and increased groundwater pumping resulted in renewed subsidence in some areas (Faunt, 2009).

Recent groundwater levels in portions of the SJV are more than 100 feet below previous historical lows. These areas correspond to areas of recent subsidence. As of 2014, several monitoring locations in the SJV have measured recent subsidence between five and 10 inches (DWR, 2014c). Most of the groundwater basins with a higher estimated potential for future subsidence are ranked as high or medium priority by the CASGEM Basin Prioritization Process, including the SJV.

The FKC Middle Reach (milepost [MP] 88 to MP 121.5) has lost over 50 percent of its original designed and constructed capacity due to regional land subsidence and a deficiency associated with the original roughness coefficient assumption. This has resulted in water delivery impacts on Friant contractors through reduced ability of the FKC to convey flood waters during wet years, reduced ability to implement provisions of the Water Management Goal as described in the San Joaquin River Restoration Settlement, and a reduced ability to store and manage the timing and volume of restoration flows in Millerton Lake and flood flows at Friant Dam.

On November 4, 2020, a Record of Decision was signed for the Friant-Kern Canal Middle Reach Capacity Correction Project. The purpose of the Friant-Kern Canal Middle Capacity Correction Project is to restore the conveyance capacity of the FKC Middle Reach to such capacity as previously designed and constructed by Reclamation, as provided for in Public Law 111-11, Section 10201 and improve operations of existing facilities at Friant Dam consistent with and as allowed for by the Water Infrastructure Improvements for the Nation Act, which will result in fewer spills and thus more efficiently use storage capacity in Millerton Lake (Reclamation, 2020).

#### **4.4.3 - REGULATORY SETTING**

The Project warrants a summary of the various codes and regulations which will constrain its implementation. The Project is subject to these regulatory requirements as applicable.

**Federal****CLEAN WATER ACT (CWA) AND ASSOCIATED PROGRAMS**

The Clean Water Act (CWA) (33 U.S.C. Section 1251 et seq.), formerly the Federal Water Pollution Control Act of 1972, was enacted with the intent of restoring and maintaining the chemical, physical, and biological integrity of the waters of the United States. The CWA requires individual states to set standards to protect, maintain, and restore water quality through the regulation of point source and certain non-point source discharges to surface water. Those discharges are regulated by the National Pollutant Discharge Elimination System (NPDES) permit process (CWA Section 402). In California, NPDES permitting authority is delegated to, and administered by, the nine Regional Water Quality Control Boards (RWQCBs). The State Water Resources Control Board (SWRCB) has elected to adopt one statewide general permit for California that applies to all construction-related stormwater discharges.

Construction activities that are subject to this general permit include clearing, grading, stockpiling, and excavation that result in soil disturbances to at least one acre of the total land area. Construction activities that disturb less than one acre are still subject to this general permit if the activities are part of a large common plan of development or if significant water quality impairment would result. In California, the Construction General Permit, revised in September 2009, is implemented by the SWRCB.

The discussion below specifies provisions of the CWA that may relate to cultivation activities. Of particular relevance are Sections 208, 401, 402, 404, 303 and 319.

**Section 208 Water Quality Control Plans**

This section requires the preparation of local Water Quality Control Plans by regulatory agencies throughout the nation. Each Water Quality Control Plan covers a defined drainage area. The primary goal of each Water Quality Control Plan is to attain water quality standards established by the CWA and the State governments within the defined area of coverage. Minimum content requirements, preparation procedures, time constraints, and federal grant funding criteria pertaining to the Water Quality Control Plans are established in Section 208 of the CWA. Preparation of the Water Quality Control Plans has been delegated to the individual states by the USEPA.

**Section 401**

CWA Section 401 requires an evaluation of water quality when a proposed activity requiring a federal license or permit could result in a discharge to waters of the United States. In California, USEPA has delegated to SWRCB and the RWQCBs the authority to issue water quality certifications. Each RWQCB is responsible for implementing Section 401 in compliance with the CWA and that region's Water Quality Control Plan (also known as a Basin Plan). Applicants for a federal license or permit to conduct activities that might result in the discharge to waters of the United States must also obtain a Section 401 water quality

certification to ensure that any such discharge would comply with the applicable provisions of the CWA.

### **Section 402**

Section 402 of the CWA establishes the National Pollutant Discharge Elimination System (NPDES). Under Section 402, a permit is required for point-source discharges of pollutants into navigable waters of the United States (other than dredge or fill material, which are addressed under Section 404). In California, the NPDES permit program is also administered by the SWRCB. Permits contain specific water quality-based limits and establish pollutant monitoring and reporting requirements. Discharge limits in NPDES permits may be based on water quality criteria designed to protect designated beneficial uses of surface waters, such as municipal water supplies, recreation or supporting aquatic life.

### **Section 404**

CWA Section 404 regulates the discharge of dredged and fill materials into waters of the U.S., which include all navigable waters, their tributaries, and some isolated waters, as well as some wetlands adjacent to the aforementioned waters (33 CFR Section 328.3). Areas typically not considered to be jurisdictional waters include non-tidal drainage and irrigation ditches excavated on dry land, artificially irrigated areas, artificial lakes or ponds used for irrigation or stock watering, small artificial waterbodies such as swimming pools, and water-filled depressions (33 CFR Part 328). Areas meeting the regulatory definition of waters of the U.S. are subject to the jurisdiction of USACE under the provisions of CWA Section 404. Construction activities involving placement of fill into jurisdictional waters of the U.S. are regulated by USACE through permit requirements. No USACE permit is effective in the absence of State water quality certification pursuant to Section 401 of the CWA.

### **Section 303**

Section 303 of the Federal CWA (as well as the State-level Porter-Cologne Act, discussed further below) requires that California adopt water quality standards. In addition, under CWA Section 303(d), states are required to identify a list of "impaired waterbodies" (those not meeting established water quality standards), identify the pollutants causing the impairment, establish priority rankings for waters on the list, and develop a schedule for preparation of Control Plans to improve water quality. USEPA then approves or modifies the state's recommended list of impaired waterbodies. Each RWQCB must update its Section 303(d) list every two years. Waterbodies on the list are defined to have no further assimilative capacity for the identified pollutant, and the Section 303(d) list identifies priorities for development of Pollution Control Plans for each listed waterbody and pollutant.

The Pollution Control Plans mandated by the CWA Section 303(d) list are called Total Maximum Daily Loads (TMDLs). The TMDL is a "pollution budget," designed to restore the health of a polluted waterbody and provide protection for designated beneficial uses. The TMDL also contains the target reductions needed to meet water quality standards and

allocates those reductions among the pollutant sources in the watershed (i.e., point sources, non-point sources, and natural sources) (40 Code of Federal Regulations [CFR] Section 130.2). A TMDL is unique to a specific waterbody and its surrounding pollutant sources and is not applicable to other waterbodies.

The current effective USEPA-approved Section 303(d) list for waterbodies in California is the 2014 and 2016 list, which received final approval by USEPA on April 6, 2018. For the proposed program, cultivation activities that may result in discharge of a contaminant to waterbodies listed as impaired for that contaminant would be of particular concern because of the water bodies' lack of assimilative capacity for that contaminant.

### **Section 319**

This section of the CWA established a national program to control non-point sources of water pollution through the development of assessment reports, adoption of management programs, and implementation of those management programs. The USEPA awards grants to states to assist them in implementing the non-point source pollution management programs (33 USC Section 1329).

### **Federal Antidegradation Policy**

The federal antidegradation policy includes minimum criteria to protect existing beneficial uses, ensure that the level of water quality is offset to maintain existing uses, and prevent degradation of water quality. This policy stipulates that states must adopt the following minimum provisions and allows states to adopt even more stringent rules (40 CFR Part 131):

- Existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected;
- Where the quality of waters exceed levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water, that quality shall be maintained and protected unless the State finds, after full satisfaction of the intergovernmental coordination and public participation provisions of the State's continuing planning process, that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located; and
- Where high-quality waters constitute an outstanding national resource, such as waters of national and State parks, wildlife refuges, and waters of exceptional recreational or ecological significance, that water quality shall be maintained and protected.

Permits issued by the SWRCB and RWQCBs under the CWA or Porter-Cologne Act, including permits for activities conducted in accordance with the proposed Project, must incorporate provisions to ensure this policy is met.

**SAFE DRINKING WATER ACT**

The Safe Drinking Water Act (SDWA) was established to protect the quality of drinking water in the United States. The SDWA focuses on all waters either designed or potentially designed for drinking water use, whether from surface water or groundwater sources. The SDWA and subsequent amendments authorized the EPA to establish health-based standards, or maximum contaminant levels (MCLs), for drinking water to protect public health against both natural and anthropogenic contaminants. All owners or operators of public water systems are required to comply with these primary (health-related) standards. State governments, which can be approved to implement these primary standards for the EPA, also encourage attainment of secondary (nuisance-related) standards. At the federal level, the EPA administers the SDWA and establishes MCLs for bacteriological, organic, inorganic, and radiological constituents (United States Code Title 42, and Code of Federal Regulations Title 40). At the State level, California has adopted its own SDWA, which incorporates the federal SDWA standards with some other requirements specific only to California (California Health and Safety Code, Section 116350 et seq.).

The 1996 SDWA amendments established source water assessment programs pertaining to untreated water from rivers, lakes, streams, and groundwater aquifers used for drinking water supply. According to these amendments, the EPA must consider a detailed risk and cost assessment, as well as best available peer-reviewed science, when developing standards for drinking water. These programs are the foundation of protecting drinking water resources from contamination and avoiding costly treatment to remove pollutants. In California, the Drinking Water Source Assessment and Protection (DWSAP) Program fulfills these federal mandates. The California State Water Resources Control Board: Division of Drinking Water (SWRCB-DDW) is the primary agency for developing and implementing the DWSAP Program and is responsible for performing the assessments of existing groundwater sources.

**State****DEPARTMENT OF WATER RESOURCES (DWR)**

DWR's major responsibilities include preparing and updating the California Water Plan to guide development and management of the State's water resources; planning, designing, constructing, operating, and maintaining the State Water Resources Development System; regulating dams; providing flood protection; assisting in emergency management to safeguard life and property; educating the public; and serving local water needs by providing technical assistance. In addition, DWR cooperates with local agencies on water resources investigations; supports watershed and river restoration programs; encourages water conservation; explores conjunctive use of ground and surface water facilities voluntary water transfers; and, when needed, operates a State drought water bank.

The legislature has directed that local agencies representing each critically impacted groundwater basin in the State submit to the State by January 2020 a plan for sustainable groundwater management for that basin (SGMA).

**STATE WATER RESOURCES CONTROL BOARD (SWRCB)**

The primary responsibility for the protection of water quality in California rests with the SWRCB. The SWRCB sets statewide policy for the implementation of State and federal laws and regulations. To do this more effectively, the SWRCB is divided into nine Regional Water Quality Control Boards (RWQCBs). The RWQCBs adopt and implement Water Quality Control Plans (Basin Plans) that recognize regional differences in natural water quality, actual and potential beneficial uses, and water quality problems associated with human activities.

The National Pollution Discharge Elimination System (NPDES) was established per the 1972 amendments to the Federal Water Pollution Control Act, or Clean Water Act (CWA), to control discharges of pollutants from point sources (Section 402). Amendments to the CWA created a new section to the act, which is devoted to stormwater permitting, with individual states designated for administration and enforcement of the provisions of the CWA and the NPDES permit program. The State Water Resources Control Board (SWRCB) issues both general construction permits and individual permits under this program.

As required by the California Water Code (Section 13240) and supported by the CWA, each RWQCB must formulate and adopt a Water Quality Plan (Basin Plan) for its region. The Basin Plan includes a summary of beneficial water uses, water quality objectives needed to protect the identified beneficial uses and implementation measures. The Basin Plan establishes water quality standards for all the ground and surface waters of the region. The term "water quality standards," as used in the CWA, includes both the beneficial uses of specific water bodies and the levels of quality that must be met and maintained to protect those uses. The Basin Plan includes an implementation plan describing the actions by the RWQCB and others that are necessary to achieve and maintain water quality standards. Water quality problems in the region are listed in the Basin Plan, along with the causes, where they are known. For water bodies with quality below the levels needed to meet the beneficial uses, plans for improving water quality are included. The Basin Plan reflects, incorporates and implements applicable portions of a number of national and statewide Water Quality Plans and policies, including the Porter-Cologne Act, California Water Code and the CWA.

**CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD IRRIGATED LANDS PROGRAM**

The Regional Board's Irrigated Lands Program addresses irrigation return flows and stormwater runoff from agricultural lands that are currently exempted from the NPDES permit program. On July 11, 2003, the Regional Board adopted two conditional waivers of waste discharge requirements for discharges from irrigated lands: coalition group waiver and individual discharger waiver. The conditional waivers allow time for coalition groups to form and begin to identify and deal with water quality problems in their watersheds. The Regional Board has renewed the Coalition Group Conditional Waiver until July 2013 (Order No. R5-2006-0053). The waiver has been amended three times. The CV Contractors are participating in the Southern San Joaquin Valley Water Quality Coalition.



**PORTER-COLOGNE WATER QUALITY CONTROL ACT**

The Porter Cologne Act, passed in 1969, acts in concert with the Federal CWA. The Act established the SWRCB and divided the State into nine regions, each overseen by a RWQCB. The SWRCB is the primary State agency responsible for protecting the quality of the State's surface and groundwater supplies; however, much of its daily implementation authority is delegated to the nine RWQCBs.

The Porter Cologne Act provides for the development and periodic review of Water Quality Control Plans (Basin Plans) that designate beneficial uses of California's major rivers and groundwater basins and establish narrative and numerical water quality objectives for those waters.

**Policy for Implementation of Toxics Standards in Inland Surface Waters, Enclosed Bays, and Estuaries of California**

In 1994, SWRCB and USEPA agreed to a coordinated approach for addressing priority toxic pollutants in inland surface waters, enclosed bays, and estuaries of California. In March 2000 (amended February 24, 2005), SWRCB adopted the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California, commonly referred to as the State Implementation Policy. This policy implements NTR and CTR criteria and applicable Basin Plan objectives for toxic pollutants. When a RWQCB issues any permit allowing the discharge of any toxic pollutant(s) in accordance with the CWA or the Porter-Cologne Act, the permit's promulgation and implementation must be consistent with the State Implementation Policy's substantive or procedural requirements. Any deviation from the State Implementation Policy requires the concurrence of USEPA if the RWQCB is issuing any permit under the CWA. Consistency with the State Implementation Policy would occur when water permits are issued for proposed program activities.

**State NPDES Program**

The SWRCB and the nine RWQCBs in California implement the State and federal clean water laws, including the NPDES permitting process. The program regulates point source discharges from industrial, municipal, and other facilities if their discharges go directly to surface waters. In 1987, the NPDES program also began a phased approach to addressing non-point source pollution from streets, parking lots, construction sites, homes, businesses, and other sources.

Under Phase I of the NPDES stormwater program, all medium separate storm sewer systems (serving a population of 100,000 to 249,000) and large separate storm systems (serving a population of 250,000 or more) are required to obtain a municipal permit. Under Phase II of the program, small storm sewer systems are also required to obtain coverage under a Regional Board-issued permit. A small storm sewer system is defined as an unpermitted municipal separate storm sewer system located in an urbanized area with a population of 50,000 and a population density of 1,000 per square mile.

The NPDES permit program also affects construction sites that disturb one acre or more. Under the Phase I NPDES stormwater program, construction sites that are larger than five acres were required to obtain a General Construction Activity Stormwater Permit. Under the Phase II NPDES program, construction sites disturbing one to five acres of land are also required to obtain coverage under the General Construction Activity Stormwater Permit. Permit applicants are required to prepare a Stormwater Pollution Prevention Plan (SWPPP), implement construction related BMPs, monitor discharges, and implement post-construction BMPs. As of July 1, 2010, the new Construction General Permit (SWRCB Permit 2009-0009-DWQ) will become effective. This new permit substantially modifies the previous permit and will require significant effort to ensure compliance.

### **California Antidegradation Policy**

SWRCB enacted the Statement of Policy with Respect to Maintaining High Quality of Waters in California, which is also referred to as the California antidegradation policy. This policy is used to ensure that high-quality water is maintained, and it limits the discharge of pollutants into high-quality water in the State (Resolution Number 68-16; SWRCB 1968), as follows:

- Whenever the existing quality of water is better than the quality established in policies as of the date on which such policies become effective, such existing high quality will be maintained until it has been demonstrated to the State that any change will be consistent with maximum benefit to the people of the State, will not unreasonably affect present and anticipated beneficial use of such water and will not result in water quality less than that prescribed in the policies; and
- Any activity which produces or may produce a waste or increased volume or concentration of waste and which discharges or proposes to discharge existing high-quality waters will be required to meet waste discharge requirements which will result in the best practicable treatment or control of the discharge necessary to assure that (a) a pollution or nuisance will not occur and (b) the highest water quality consistent with maximum benefit to the people of the State will be maintained.

Similar to the federal antidegradation policy (described above), permits issued by SWRCB and the RWQCBs under the CWA or Porter-Cologne Act for activities conducted under the proposed program must incorporate provisions to ensure that this State-level policy is met.

### **California Pesticide Management Plan for Water Quality**

The California Pesticide Management Plan for Water Quality is a joint effort between the California Department of Pesticide Regulation (CDPR), county agricultural commissioners, SWRCB, and the RWQCBs to protect water quality from pesticide pollution. To reduce the possibility of pesticides entering groundwater or surface water, a four-stage approach was designed by CDPR and SWRCB. Stage 1 involves educational outreach to the community to prevent pesticide contamination in water supplies. Stage 2 occurs after pesticides are detected in a water supply, and an appropriate response is selected that is safe and site specific. If Stage 2 is not effective, then Stage 3 tactics are employed, which include implementing restricted material use permit requirements, regulations, and other

regulatory authority by CDPR and the county agricultural commissioners. In addition, SWRCB and the RWQCBs can employ Stage 4 and a variety of water quality control planning programs and other regulatory measures to protect water quality as necessary.

### **Surface Water Protection Program**

CDPR implements the California Pesticide Management Plan for surface water protection through its Surface Water Protection Program, under a Management Agency Agreement with SWRCB. The Surface Water Protection Program is designed to characterize pesticide residues, identify contamination sources, determine flow of pesticides to surface water, and prepare site-specific mitigation measures. The program addresses both agricultural and non-agricultural sources of pesticide residues in surface waters. It has preventive and response components that reduce the presence of pesticides in surface waters. The preventive component includes local outreach to promote management practices that reduce pesticide runoff. Prevention also relies on CDPR's registration process, in which potential adverse effects on surface water quality, and particularly those in high-risk situations, are evaluated. The response component includes mitigation options to meet water quality goals, recognizing the value of self-regulating efforts to reduce pesticides in surface water as well as regulatory authorities of CDPR, SWRCB, and the RWQCBs.

### **Pesticide Contamination Prevention Act**

The Pesticide Contamination Prevention Act (DPR, 2021), approved in 1985, was developed to prevent further pesticide contamination of groundwater from legal agricultural pesticide applications. The Act defines pesticide pollution as "the introduction into the groundwaters of the State of an active ingredient, other specified product, or degradation product of an active ingredient of an economic poison above a level, with an adequate margin of safety that does not cause adverse health effects." CDPR has compiled a list of pesticide active ingredients on the Groundwater Protection List that have the potential to pollute groundwater. These various pesticides are reviewed, and their use is modified when they are found in groundwater.

### **Groundwater Protection Program**

CDPR implements the Pesticide Contamination Prevention Act through its Groundwater Protection Program, which is coordinated with SWRCB under the California Pesticide Management Plan. The Groundwater Protection Program evaluates and samples pesticides to determine whether they may contaminate groundwater, identifies areas sensitive to pesticide contamination, and develops mitigation measures to prevent the movement of pesticides. CDPR may adopt regulations to carry out these mitigation measures. CDPR conducts four groundwater monitoring programs. The first monitors whether pesticides on the Groundwater Protection List with the potential to pollute have been found in groundwater. The second type is four-section monitoring, which monitors wells in the vicinity of a contaminated well. The third monitoring type is sensitive area monitoring that identifies areas sensitive to pesticide pollution. The fourth type is investigative monitoring,

used to identify and understand the factors that affect pesticide movement into groundwater.

### **State Water Rights System**

SWRCB administers a water rights system for the diversion of surface waters (springs, streams, and rivers), including diversion of water from subterranean streams flowing in known and definite channels. The granting of a water right provides permission to withdraw water from a river, stream, or groundwater source for a "reasonable" and "beneficial" use. Water right permits and licenses identify the amounts, conditions, and construction timetables for a proposed diversion. Before issuing the permit, SWRCB must take into account all prior rights and the availability of water in the basin, as well as the flows needed to preserve instream uses such as recreation and fish and wildlife habitat. Water rights are administered using a seniority system based on the date of applying for the water right, commonly referred to as "first in time, first in right." Junior water rights holders may not divert water in a manner that would reduce the ability of senior water rights holders to exercise their water right.

### **Sustainable Groundwater Management Act**

The Sustainable Groundwater Management Act (SGMA), passed in 2014, became law in 2015, and created a legal and policy framework to manage groundwater sustainably at a local level. The SGMA allows local agencies to customize Groundwater Sustainability Plans to their regional economic and environmental conditions and needs and establish new governance structures, known as groundwater sustainability agencies (GSAs) (State of California 2015). The SGMA requires that a Groundwater Sustainability Plan (GSP) be adopted for groundwater basins designated as high and medium priority (127 out of 515 basins and subbasins) under the California Statewide Groundwater Elevation Monitoring Program (described below) by 2020 for basins with critical overdraft of underground aquifers. GSPs are intended to facilitate the use of groundwater in a manner that can be maintained during the planning and implementation horizon without causing undesirable results. Undesirable results are defined as the following:

- Chronic lowering of groundwater levels (not including overdraft during a drought if a basin is otherwise managed);
- Significant and unreasonable reduction of groundwater storage;
- Significant and unreasonable seawater intrusion;
- Significant and unreasonable degraded water quality, including the migration of contaminant plumes that impair water supplies;
- Significant and unreasonable land subsidence that substantially interferes with surface land uses; and
- Depletions of interconnected surface water that have significant and unreasonable adverse impacts on beneficial uses of the surface water.

GSPs are required to include measurable objectives, as well as interim milestones in five-year increments, to achieve the sustainability goal for the basin for the long-term beneficial

uses of groundwater. The GSP may, but is not required to, address undesirable results that occurred before, or had not been corrected prior to the date that the SGMA went into effect. The GSA has the discretion to decide whether to set measurable objectives and the timeframes for achieving any objectives for undesirable results that occurred before 2015. Additionally, GSPs are required to include components related to the monitoring and management of groundwater levels within the basin, mitigation of overdraft, and a description of surface water supply used or available for use for groundwater recharge or in lieu use.

### ***CALIFORNIA STATEWIDE GROUNDWATER ELEVATION MONITORING BASIN PRIORITIZATION***

In 2009, the California State legislature amended the California Water Code with SBx7-6, which mandates a Statewide Groundwater Elevation Monitoring Program to track seasonal and long-term trends in groundwater elevations in California. Under this amendment, DWR established the California Statewide Groundwater Elevation Monitoring (CASGEM) Program, which establishes the framework for regular, systematic, and locally managed monitoring in all of California's groundwater basins. To facilitate implementation of the CASGEM Program and focus limited resources, as required by the California Water Code, DWR ranked all of California's basins by priority: high, medium, low, and very low. DWR's basin prioritization was based on the following factors:

- Population overlying the basin;
- Rate of current and projected growth of the population overlying the basin;
- Number of public supply wells that draw from the basin;
- Total number of wells that draw from the basin;
- Irrigated acreage overlying the basin;
- Degree to which persons overlying the basin rely on groundwater as their primary source of water;
- Any documented impacts on the groundwater within the basin, including overdraft, subsidence, saline intrusion, and other water quality degradation; or
- Any other information determined to be relevant by DWR.

### ***SENATE BILLS 610 (CHAPTER 643, STATUTES OF 2001) AND 221 (CHAPTER 642, STATUTES OF 2001)***

Senate Bill (SB) 610 and SB 221 are companion measures that seek to promote more collaborative planning among local water suppliers and cities and counties. They require that water supply assessments occur early in the land use planning process for all large-scale development projects. If groundwater is the proposed supply source, the required assessments must include detailed analyses of historic, current, and projected groundwater pumping and an evaluation of the sufficiency of the groundwater basin to sustain a new project's demands. They also require an identification of existing water entitlements, rights, and contracts and a quantification of the prior year's water deliveries. In addition, the supply and demand analysis must address water supplies during single and multiple dry years presented in five-year increments for a 20-year projection. Under Senate Bill 221, approval

by a county of a subdivision of more than 500 homes, or an equivalent project in terms of water demand, requires an affirmative written verification of a sufficient water supply.

### **RESOLUTION No. 68-16 (ANTIDegradation Policy)**

SWRCB Resolution No. 68-16, Statement of Policy with Respect to Maintaining High Quality Water of the State (antidegradation policy), requires that high-quality waters of the State of California be maintained consistent with their beneficial uses and water quality objectives as defined in a Basin Plan. Resolution No. 68-16 prohibits degradation of groundwater by waste discharges unless dischargers meet specific conditions.

### **RECYCLED WATER POLICY**

On February 3, 2009, by Resolution No. 2009-0011 and amended on December 11, 2018, by Resolution No. 2018-0057 the SWRCB adopted a Recycled Water Policy in an effort to move towards a sustainable water future. In the Recycled Water Policy, it is stated “we declare our independence from relying on the vagaries of annual precipitation and move towards sustainable management of surface waters and groundwater, together with enhanced water conservation, water reuse and use of stormwater.”

The following goals were included in the Recycled Water Policy:

- Increase use of recycled water over 2002 levels by at least 1.5 million acre-feet per year by 2020 and at least 2.5 million acre-feet per year by 2030;
- Increase the use of stormwater over use in 2007 by at least 500,000 acre-feet per year by 2020 and at least one million acre-feet by year 2030;
- Increase the amount of water conserved in urban and industrial areas by comparison to 2007 by at least 20 percent by 2020; and
- Included in these goals is the substitution of as much recycled water for potable water as possible by 2030.

The Recycled Water Policy provides direction to the RWQCBs regarding issuing permits for recycled water projects, addresses the benefits of recycled water, addresses a mandate for uses of recycled water and indicates that the SWRCB will exercise its authority to the fullest extent possible to encourage the use of recycled water.

### **TULARE LAKE BASIN PLAN**

The Tulare Lake Basin Plan provides quantitative and narrative criteria for a range of water quality constituents applicable to receiving water bodies and groundwater basins within the basin. Specific water quality objectives are provided for the larger designated water bodies within the region, and more general narrative water quality objectives are provided for all surface waters and groundwater. In general, the narrative objectives require that degradation of water quality not occur due to increases in pollutant loads that will adversely impact the designated beneficial uses of a water body. For example, the narrative objective for inland surface waters for sediment states, “the suspended sediment load and suspended

sediment discharge rate of water shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses.” Water quality criteria apply within receiving waters as opposed to applying directly to runoff; therefore, water quality from the Tulare Lake Basin Plan are utilized as benchmarks to evaluate the potential ecological impacts of projects runoff on the receiving waters of the proposed Project.

Waterbodies, including surface water and groundwater, with a municipal and domestic supply designated beneficial use are not to have concentrations that exceed maximum contaminant levels (MCLs). Federal MCLs are established by U.S. EPA, and California MCLs are established by the SWRCB-DDW under the California Safe Drinking Water Act. California MCLs are in Title 22 of the California Code of Regulations [CCR]. The MCLs consist of (1) primary MCLs, which are enforceable standards for contaminants that present a risk to human health, and (2) secondary MCLs, which are non-mandatory standards established to assist public water systems in managing drinking water for aesthetic considerations, such as taste, color and odor, but do not relate to a health risk. The U.S. EPA sets the secondary MCL for TDS at 500 milligrams per liter (mg/L). The SWRCB-DDW sets a recommended MCL of 500 mg/L, and upper concentrations of 1,000 mg/L and a short-term upper limit of 1,500 mg/L.

#### **4.4.4 - IMPACTS AND MITIGATION MEASURES**

##### **Methodology**

The surface water resources impact assessment methodology involved a qualitative evaluation of potential changes on surface water conditions (including existing water quality, natural drainage patterns, and flooding hazards) under the proposed Project. Regional information on surface water conditions available from DWR and the U.S. Geological Survey (USGS) were reviewed. Potential impacts relate to possible changes in surface water deliveries were evaluated relative to current and historical surface water conditions.

The groundwater resources impact assessment methodology involved a qualitative evaluation of potential changes in groundwater use under the proposed Project. Regional information on groundwater conditions (quantity and quality) and groundwater use available from DWR and the USGS were reviewed. Potential impacts related to possible changes in surface water deliveries were evaluated relative to current and historical groundwater use.

##### **Thresholds of Significance**

Appendix G of the CEQA Guidelines as amended contains analysis guidelines related to the assessment of hydrology and water quality impacts. A project would result in a significant impact if it would:

- a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater.

- b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin.
- c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:
  - i. result in substantial erosion or siltation on- or off-site;
  - ii. substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;
  - iii. create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff, or
  - iv. impede or redirect flood flows.
- d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation.
- e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.

### ***Project Impacts***

#### **Impact 4.4-1: Violate Any Water Quality Standards or Waste Discharge Requirements or Otherwise Substantially Degrade Surface or Groundwater Quality**

The proposed Project includes two components for each CV Contractor:

- The approval and execution of a contract with Reclamation that converts, pursuant to the WIIN Act, the CV Contractor's existing water supply contract for CVP water to a repayment contract authorizing prepayment of outstanding CVP construction costs; and
- The approval and execution of a contract with Reclamation and DWR that renews the terms of an existing contract for the conveyance of the CV Contractor's CVP water until 2035.

The proposed conversion of the existing CVP contracts under the WIIN Act, and renewal and updating the conveyance provisions of the existing contracts into separate conveyance contracts, will allow the CV Contractors to continue receiving CVP water in the manner consistent with current and historical practices.

No changes over current conditions would occur as a result of the Project and implementation of the proposed Project would not result in any direct or indirect change in



the quality of water delivered to the CV Contractors. The water supply source(s) would remain the same, as would the means and methods of conveyance. Potential sources of contaminants, such as accidental spills or leaks into the conveyance system or source water, would be similar to those under existing conditions. The potential for source water to infiltrate to groundwater would remain the same. It is possible that the CV Contractors' supply could be exchanged to supplement existing groundwater banking facilities. Given the relatively high quality of the CVP water, use of the water for recharge may result in increased quality of groundwater supply in some situations. The introduction of CVP water allocated under the CV contracts into the FKC could reduce the relative quality of the FKC water depending on if there is any comingling of the CVP water delivered through the Delta and CVP water delivered through Millerton Lake. The practice of occasionally introducing CVP water allocated under the CV contract and delivered through the Delta into the FKC is a long-standing practice that has historically occurred and is a baseline project condition. As outlined below, the FWA's canal operations procedures expressly include the introduction of such water into the southern end of the FKC and moving it by "reverse flow" north over a series of checks for delivery to contractors.

The FKC is part of the Friant Division of the CVP and conveys water from Millerton Lake on the San Joaquin River south to Kern River near Bakersfield. The FKC is owned by Reclamation but, since October of 1986, is operated and maintained by the FWA, which is termed the "non-federal operating entity" in applicable Reclamation contracts.

Water deliveries via the FKC are made pursuant to water service and repayment contracts and based on hydrologic supply and district demands. Water is typically delivered south by gravity flow from Millerton Lake. Alternatively, water may be delivered to contractors from other sources such as from the Delta and pumped into the FKC. Such deliveries frequently introduce water into the FKC near its southern end at its intertie with the CVC and may then be pumped from lower reaches of the FKC to its upper reaches. This upstream flow ("reverse flow") is accomplished by operating pumps at selected checks to lift the water from the downstream side of the check, over the check, to the upstream side of the check. One such reach is created by the Shafter Check Structure at FKC Milepost 137.2, where a permanent 30 cubic feet per second ("cfs") pump is located and where FWA installs and operates it and other temporary pumps as needed. Other similar reaches further north are created by the Poso Check and the Lake Woollomes Check, where FWA installs temporary pumps as conditions warrant to facilitate delivery of water further north in the FKC. If all three checks are operated in reverse, water can be conveyed north from the CVC to KTWD, the southern-most CV Contractor.

Reverse flow operation of the FKC, as discussed above and where water is introduced to the FKC at its southern end from the CVC and other sources and pumped north, is part of FWA's canal operations procedures, which provide:

*"Reverse flow*

*Water contractors with facilities that tie into the FKC within the reaches upstream of the Kern Check can introduce supplemental flows into the system and reverse flow*

*these deliveries upstream as far as Lake Woollomes. Historical introductions have been by means of siphons in the Kern Check along with pumps within the Shafter and Poso Checks. The addition of the bi-directional intertie with the Cross Valley Canal allows water to be directly introduced into the FKC within the Kern Check. This intertie was installed and approved under USBR guidelines. All water coming into the FKC is metered for flow rate accuracy and totalized for quantity. Reverse flow introductions in the FKC are either diverted to contractors within the pumped-in reach or pumped over the upstream check structure in order to satisfy demand. Reverse flow pump installations may be installed at the Shafter, Poso, and Reservoir Check Structures to further reverse flow any water in excess of each check's demands. All flows introduced into the FKC are coordinated through the FWA Water Operations Department, USBR, introducing contractors, and receiving contractors."*

Reclamation's water deliveries in the region are further made to its contractors pursuant to the terms of the (1) *The United States Department of the Interior Bureau of Reclamation South-Central California Area Office Operational Guidelines for Water Service Friant Division Central Valley Project*, (2) *CVC Operations Manual*, and (3) *the Friant Operational Guidelines*. The Project is and will remain subject to these standards and conditions.

This reverse flow operation has been historically, and presently is, used to move CVP water from the CVC to Friant Division contractors or some of the CV Contractors, such as KTWD. The long-standing practice introduces CVP water from the CVC with a typically higher total dissolved solids<sup>3</sup> concentration than CVP water from Millerton, into the FKC. This water quality concern is addressed with respect to AEWS in the CVC Operating Agreement<sup>4</sup>, to which AEWS is a party.

Further, Reclamation's Policy for Accepting Non-Project Water into the Friant-Kern and Madera Canals, dated March 7, 2008 ("Water Quality Policy"), governs water quality related to the introduction of all water into the FKC. The policy's purpose is "to ensure that water quality is protected" in the FKC. Pursuant to the policy there are various, different water quality requirements depending on the source and quality of water. Pursuant to the terms of the Water Quality Policy, the delivery of CVP water into the FKC is not subject to the Water Quality Policy, as the policy only applies to non-project water. Project Water—from whatever part of the CVP including from the Delta—requires no additional evaluation beyond that already performed under the policy. Under the Water Quality Policy, "water pumped from the California Aqueduct and Cross Valley Canal into the lower Friant-Kern Canal" is an example of water that does not require additional water quality analysis. Under

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<sup>3</sup> CVP water that moves through the Delta may include, among other things, sodium, chloride, and boron at relatively higher levels than CVP water that moves through Millerton. As outlined in the Water Quality Policy and discussed in more detail below, such water is analyzed in the FKC for "for Title 22 and many other constituents."

<sup>4</sup> Contract Among Kern County Water Agency and Various Parties for the Operation of the Cross Valley Canal Extension and Intertie.

the Water Quality Policy, the reason that no additional water quality analysis over that which is already conducted for Project water is required in order to convey such water through the Friant-Kern Canal is “because it is physically the same as Project water.” The Project is and will remain subject to all applicable water quality standards and conditions.

Furthermore, the proposed Project would not result in the construction of any new facilities. No potential construction-related water quality impacts would occur. No changes over current conditions would occur as a result of the Project and implementation of the proposed Project would not result in any direct or indirect change in the quality of water delivered to the CV Contractors. The water supply source(s) would remain the same, as would the means and methods of conveyance. The proposed conversion of the CVP contracts and renewal of the conveyance contracts will merely allow the CV Contractors to continue receiving CVP water in the manner consistent with ongoing and historical practices. No direct or indirect impacts to water quality standards or discharge requirements would occur.

#### **MITIGATION MEASURES**

No mitigation measures are required.

#### **LEVEL OF SIGNIFICANCE**

*No impact.*

#### **Impact 4.4-2: Substantially Decrease Groundwater Supplies or Interfere Substantially with Groundwater Recharge Such That the Project May Impede Sustainable Groundwater Management of the Basin**

The water districts strive to provide surface water at affordable prices to discourage groundwater pumping. However, due to nine years of drought (2011–2019), much of the SJV is in groundwater overdraft conditions. Quite often, CV Contractors and private landowners within water district boundaries have fewer water supply options and more quickly turn to pumping groundwater to meet their water demands. Fresno County Service Area (CSA) #34, KTWD, Alpaugh ID, and Atwell WD are located in areas with inadequate groundwater supplies and unsuitable for groundwater recharge in support of groundwater banking. Water districts located in the Kern County Basin have been exchange partners with the CV Contractors in the past and will likely continue to do so in the future because of the availability of groundwater storage facilities and conveyance facilities in Kern County. Therefore, groundwater supply could improve temporarily in Kern County. However, short of a dependable long-term supply, the contractors have water supply reliability issues that in turn, affect groundwater conditions. Water supply available under this Project is a part of each of the District’s SGMA Plans.

A benefit of the proposed Project is to ensure that water supplies continue to be conserved and used at maximum efficiency taking into consideration timing, availability, and variability of CVP and non-CVP water supplies. The proposed Project is needed to preserve

groundwater levels within the Project Area. The proposed Project would help CV Contractors maintain and continue existing water management practices. These include:

- Avoid long-term overdraft by achieving a balanced groundwater budget;
- Maintain a diversified water supply, sufficient to supply water for all uses, even during supply shortages;
- Integrate groundwater management with use of CVP and other surface water supplies as available;
- Make use of current conveyance and distribution systems and facilities to fully utilize all water supplies; and
- Avoid or correct groundwater levels that are too low to support existing wells.

Implementation of the proposed Project, including the continued implementation of the above-listed practices, would continue to improve, maintain, and conserve groundwater resources in the Project Area. In addition, the proposed Project would ensure compliance with recent groundwater legislation intended to better manage and monitor groundwater resources throughout the State. The proposed Project could provide an increase of water to areas suitable for groundwater recharge. However, it is not expected that the proposed Project would result in significant changes in existing groundwater conditions. Therefore, the proposed Project would not directly or indirectly result in adverse impacts to groundwater quality or quantity. No impact would occur, and no mitigation is required.

#### ***MITIGATION MEASURES***

No mitigation measures are required.

#### ***LEVEL OF SIGNIFICANCE***

##### ***No impact.***

#### **Impact 4.4-3(i): Substantially Alter the Existing Drainage Pattern of the Site or Area, Including Through the Alteration of the Course of a Stream or River, or Through the Addition of Impervious Surfaces, in a Manner Which Would: Result in Substantial Erosion or Siltation On- or Off-Site**

The proposed Project would not result in any direct or indirect change in the direction of flow in any natural or manmade channels relative to existing conditions. The options for conveyance of CVP water to the CV Contractors would remain the same. The CVC conveyance system is strictly controlled by the CV Contractors to avoid exceeding the capacity of the system. The potential for uncontrolled release of conveyed water (and any resulting erosion, sedimentation or flooding) is very low. Therefore, no direct or indirect impacts related to increased erosion, siltation, or increased flooding. No impact would occur, and no mitigation is required.

**MITIGATION MEASURES**

No mitigation measures are required.

**LEVEL OF SIGNIFICANCE**

*No impact.*

**Impact 4.4-3(ii): Substantially Alter the Existing Drainage Pattern of the Site or Area, Including the Alteration of the Course of a Stream or River or Through the Addition of Impervious Surfaces, or Substantially Increase the Rate or Amount of Surface Runoff in a Manner Which Would Result in Flooding On- Or Off-Site**

Implementation of the proposed Project would not result in any direct or indirect change in the potential to increase runoff. No new facilities or impervious surfaces would be constructed. No new sources of runoff would be created, and therefore, no direct or indirect impacts would occur. There would be no impact and no mitigation is required.

**MITIGATION MEASURES**

No mitigation measures are required.

**LEVEL OF SIGNIFICANCE**

*No impact.*

**Impact 4.4-3(iii): Substantially Alter the Existing Drainage Pattern of the Site or Area, Including Through the Alteration of the Course of a Stream or River or Through the Addition of Impervious Surfaces, in a Manner Which Would Create or Contribute Runoff Water Which Would Exceed the Capacity of Existing or Planned Stormwater Drainage Systems or Provide Substantially Additional Sources of Polluted Runoff**

See Impacts 4.4-1, 4.4-2, 4.4-3(i) and 4.4-3(ii), above.

**MITIGATION MEASURES**

No mitigation measures are required.

**LEVEL OF SIGNIFICANCE**

*No impact.*

**Impact 4.4-3(iv): Substantially Alter the Existing Drainage Pattern of the Site or Area, Including Through the Alteration of the Course of a Stream or River or Through the Addition of Impervious Surfaces, in a Manner Which Would impede or redirect flood flows**

See Impacts 4.4-3(i) and 4.4-3(ii), above.

**MITIGATION MEASURES**

No mitigation measures are required.

**LEVEL OF SIGNIFICANCE**

*No impact.*

**Impact 4.4-4: In Flood Hazard, Tsunami, or Seiche Zones, Risk Release of Pollutants Due to Project Inundation**

The proposed Project would not contribute to the potential to contribute to inundation by a seiche or tsunami. Under existing conditions, the potential for a seiche or tsunami is very low due to the absence of water bodies capable of generating such waves. The relatively gentle topography does not present a hazard of inundation by a mudflow. These conditions would not change under the proposed Project. Therefore, no direct or indirect impacts would occur. There would be no impact and no mitigation is required.

Therefore, impacts from flood, seiche or inundation would be no impact.

**MITIGATION MEASURES**

No mitigation measures are required.

**LEVEL OF SIGNIFICANCE**

*No impact.*

**Impact 4.4-5: Conflict with or Obstruct Implementation of a Water Quality Control Plan or Sustainable Groundwater Management Plan**

The proposed Project would remain the same as would the means of conveyance. Water supply available under this Project is a part of each of the District's SGMA Plans. Therefore, the proposed Project would not conflict with or obstruct implementation of a Water Quality Control Plan or Sustainable Groundwater Management Plan. Therefore, impacts would be less than significant.

**MITIGATION MEASURES**

No mitigation measures are required.

**LEVEL OF SIGNIFICANCE**

Impacts are *less than significant*.

## **Cumulative Setting Impacts and Mitigation Measures**

### **CUMULATIVE IMPACTS**

CEQA Guidelines Section 15130(a) states: An EIR shall discuss cumulative impacts of a project when the project's incremental effect is cumulatively considerable, as defined in Section 15065(a)(3). Where a Lead Agency is examining a project with an incremental effect that is not "cumulatively considerable," a Lead Agency need not consider that effect significant but shall briefly describe its basis for concluding that the incremental effect is not cumulatively considerable.

The issues for determination of a potential cumulative impact on surface water resources are those associated with water quality and quantity. Implementation of the proposed Project would not result in any direct or indirect change in the quality or quantity of water delivered to the CV Contractors. The water supply source(s) would remain the same as would the means of conveyance. Consequently, no cumulative impacts would occur to surface water resources of the CV Contractors in the Project Area.

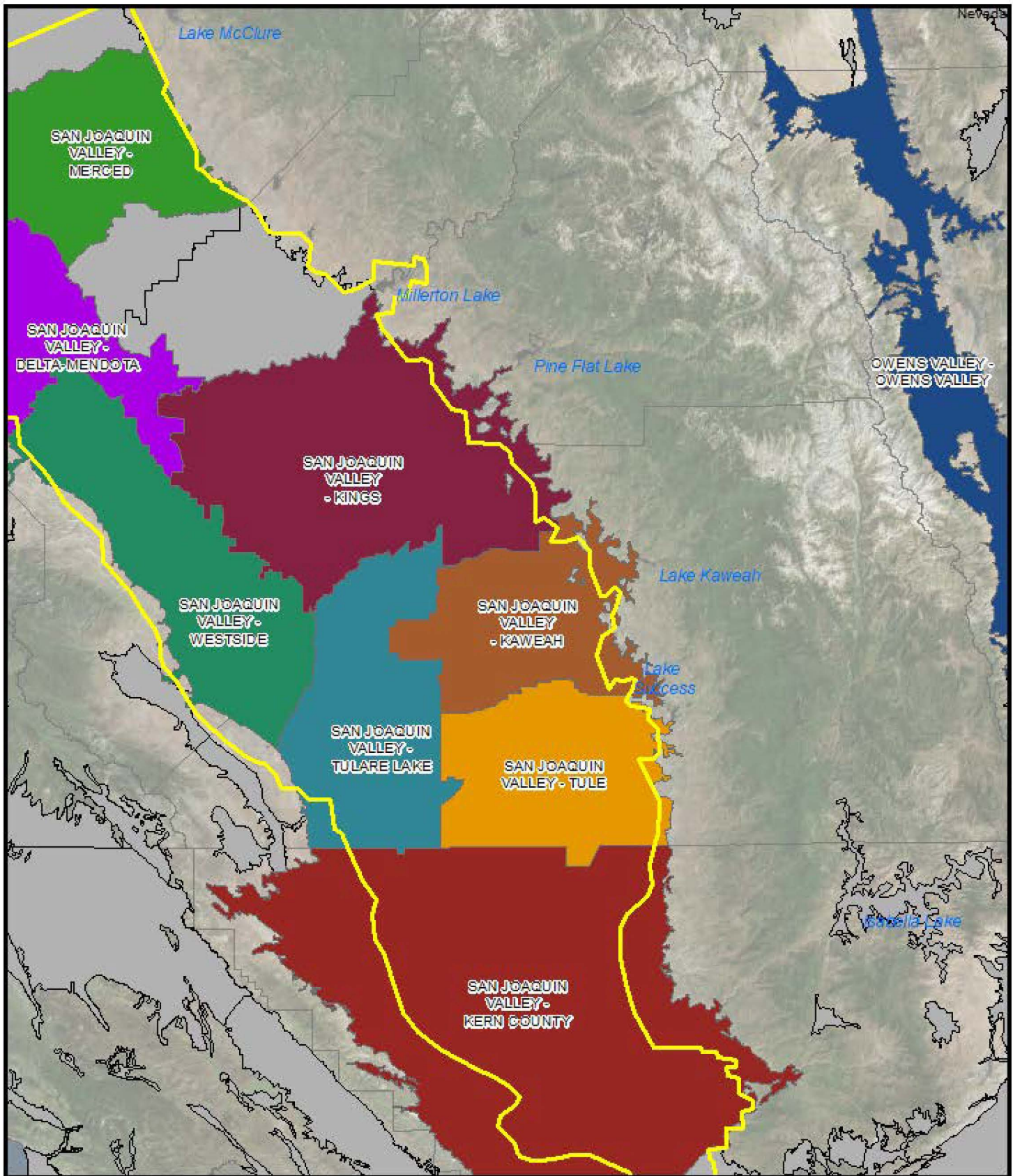
Much of the SJV is in a state of overdraft. A portion of the water applied on irrigated lands seeps into the groundwater; however, groundwater seepage is slow and would not lower the expense of pumping groundwater. The CV Contractors strive to provide surface water at affordable prices to discourage groundwater pumping. The proposed Project could provide short-term relief to groundwater quality and quantity. No new water supplies would be added to this region; therefore, the proposed Project would have no impact on water resources as described previously. As such, no cumulative effects on groundwater resources in the Project Area are anticipated.

### **MITIGATION MEASURES**

No mitigation measures are required.

### **CUMULATIVE LEVEL OF SIGNIFICANCE**

Cumulative impacts would be *no impact*.



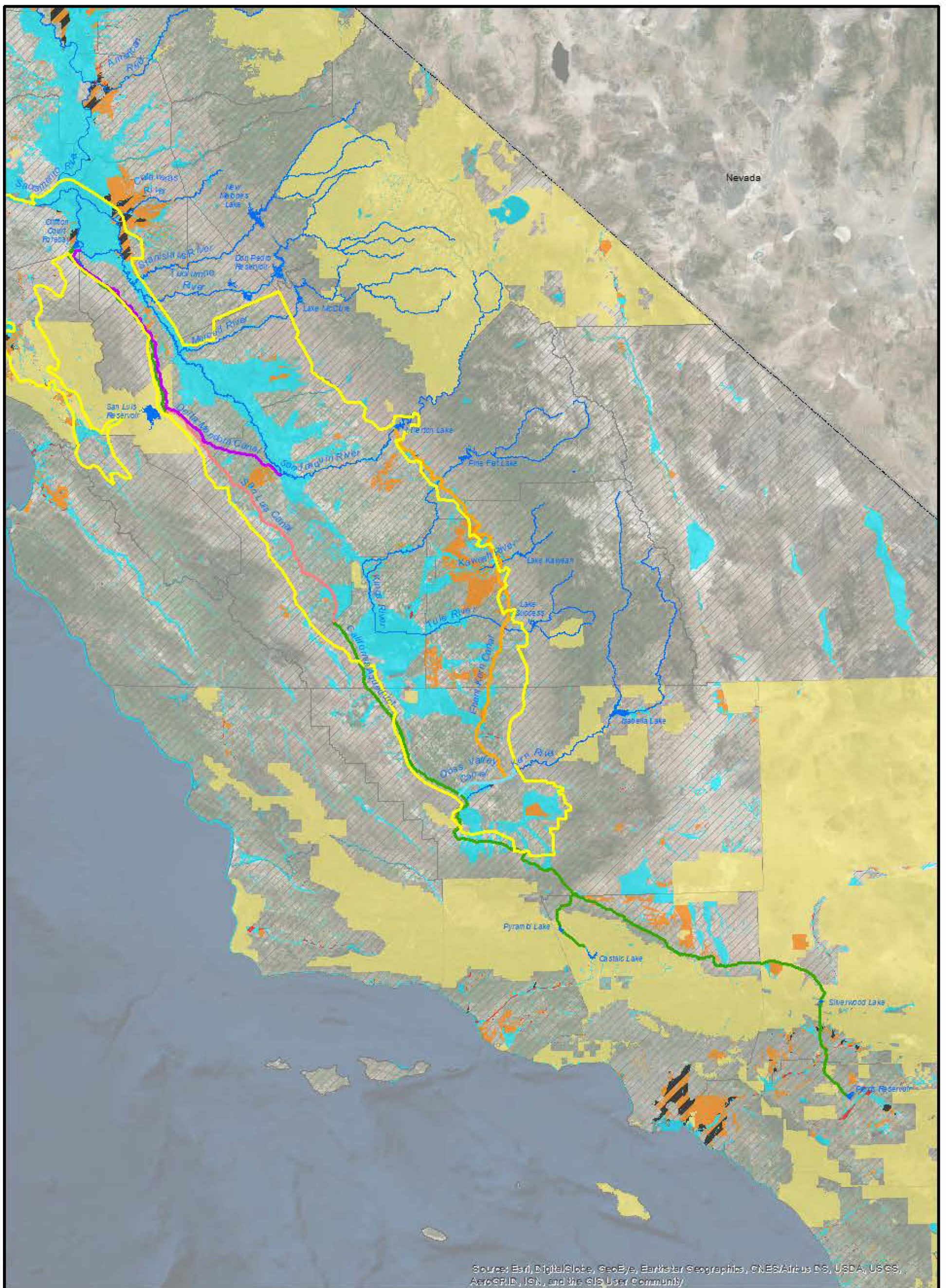
**Figure 4.4-1 Project Location- Groundwater**

- |  |  |
|--|--|
|  Considered Place of Use            |  SAN JOAQUIN VALLEY - KINGS       |
|  OWENS VALLEY - OWENS VALLEY        |  SAN JOAQUIN VALLEY - MERCED      |
|  SAN JOAQUIN VALLEY - DELTA-MENDOTA |  SAN JOAQUIN VALLEY - TULARE LAKE |
|  SAN JOAQUIN VALLEY - KAWEAH        |  SAN JOAQUIN VALLEY - TULE        |
|  SAN JOAQUIN VALLEY - KERN COUNTY   |  SAN JOAQUIN VALLEY - WESTSIDE    |
|  |  OTHER GROUNDWATER BASINS         |




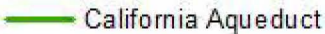
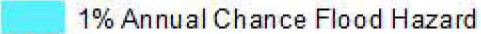
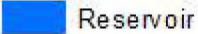
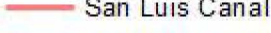
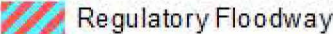
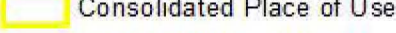
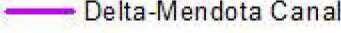
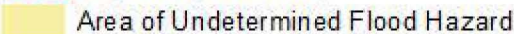
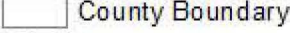
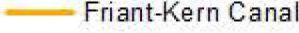
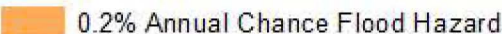
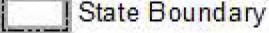
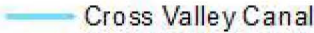
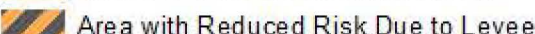

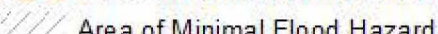
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Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

**Map 4.4-2 FEMA Flood Hazards**

	 California Aqueduct	 1% Annual Chance Flood Hazard	 Reservoir
	 San Luis Canal	 Regulatory Floodway	 Consolidated Place of Use
	 Delta-Mendota Canal	 Area of Undetermined Flood Hazard	 County Boundary
	 Friant-Kern Canal	 0.2% Annual Chance Flood Hazard	 State Boundary
	 Cross Valley Canal	 Area with Reduced Risk Due to Levee	
	 River	 Area of Minimal Flood Hazard	

## **4.5 - Wildfire**

### **4.5.1 - INTRODUCTION**

This section is to identify, to the extent feasible, the potential for wildland fires in connection with the proposed Project site and to identify potential risks to human health. A wildfire is a non-structural fire that occurs in vegetative fuels, excluding prescribed fire. Wildfires can occur in undeveloped areas and spread to urban areas where the landscape and structures are not designed and maintained to be ignition resistant. A wildland-urban interface is an area where urban development is located in proximity to open space or “wildland” areas. The potential for wildland fires represents a hazard where development is adjacent to open space or within close proximity to wildland fuels or designated fire severity zones. Fires that occur in wildland-urban interface areas may affect natural resources as well as life and property.

### **4.5.2 - ENVIRONMENTAL SETTING**

#### **Regional Setting**

The environmental setting includes the point of diversion and re-diversion for the CV Contractors’ water supply (Banks Pumping Plant in the Delta), the general region across which water is conveyed from the Delta (the San Joaquin Valley), the facilities by which water is delivered to an Exchange Entity, and facilities by which water is conveyed from the Exchange Entity to the CV Contractor, and the facilities by which water is conveyed directly to the CV Contractor.

### **4.5.3 - REGULATORY SETTING**

#### **Federal**

There are no federal regulations that apply to the proposed Project regarding wildfire hazards.

#### **State**

California Department of Forestry and Fire Protection (CAL FIRE) protects the people of California from fires, responds to emergencies, and protects and enhances forest, range, and watershed values providing social, economic, and environmental benefits to rural and urban citizens. CAL FIRE’s firefighters, fire engines, and aircraft responded to an estimated 9,917 fires in 2020 (CAL FIRE, 2020).

The Office of the State Fire Marshal supports CAL FIRE’s mission by focusing on fire prevention. It provides support through a wide variety of fire safety responsibilities including by regulating buildings in which people live, congregate, or are confined; by controlling substances and products which may, in and of themselves, or by their misuse, cause injuries, death, and destruction by fire; by providing statewide direction for fire

prevention in wildland areas; by regulating hazardous liquid pipelines; by reviewing regulations and building standards; and by providing training and education in fire protection methods and responsibilities.

Fire regulations for California are established in Sections 13000 et seq. of the California Health and Services Code and include regulations for structural standards (similar to those identified in the California Building Code); fire protection and public notification systems; fire protection devices such as extinguishers and smoke alarms; standards for high-rise structures and childcare facilities; and fire suppression training. The State Fire Marshal is responsible for enforcement of these established regulations and building standards for all State-owned buildings, State-occupied buildings, and State institutions within California.

### ***CALIFORNIA FIRE CODE***

The 2019 California Fire Code (Title 24, Part 9 of the California Code of Regulations) establishes regulations to safeguard against the hazards of fire, explosion, or dangerous conditions in new and existing buildings, structures, and premises. The Fire Code also establishes requirements intended to provide safety for and assistance to firefighters and emergency responders during emergency operations. The provisions of the Fire Code apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal, and demolition of every building or structure throughout California. The Fire Code includes regulations regarding fire-resistance-rated construction, fire protection systems such as alarm and sprinkler systems, fire services features such as fire apparatus access roads, means of egress, fire safety during construction and demolition, and wildland-urban interface areas.

### ***FIRE HAZARD SEVERITY ZONES***

Fire Hazard Severity Zones (FHSZs) are areas of significant fire hazards based on fuels, terrain, weather, and other relevant factors that have been mapped by the California Department of Forestry and Fire Protection (CAL FIRE) under the direction of Public Resources Code (PRC) 4201-4204 and Government Code 51175-89. FHSZs are ranked from moderate to very high and are categorized fire protection as within a Federal Responsibility Area (FRA) under the jurisdiction of a federal agency, within a State Responsibility Area (SRA) under the jurisdiction of CAL FIRE, or within a Local Responsibility Area (LRA) under the jurisdiction of a local agency.

The Project is subject to these regulatory requirements as applicable.

#### ***4.5.4 - IMPACTS AND MITIGATION MEASURES***

This section analyzes the impacts associated with implementation of the proposed Project related to the risk of exposure to wildfire. The impact analysis describes the methods used to determine the Project's impacts and lists the thresholds used to conclude the significance of an impact. Measures to mitigate (avoid, minimize, rectify, reduce, eliminate, or compensate for) significant impacts accompany each impact discussion, as appropriate.

## **Methodology**

This analysis is based on publicly available data provided by CAL FIRE and other publicly available information.

## **Thresholds of Significance**

Appendix G of the CEQA Guidelines as amended contain analysis guidelines related to the assessment of wildfire hazards impacts. If located in or near State responsibility areas or lands classified as very high fire hazard severity zones, would the project:

- a) Substantially impair an adopted emergency response plan or emergency evacuation plan.
- b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire.
- c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment.
- d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes.

### **Impact 4.5-1: Substantially Impair an Adopted Emergency Response Plan or Emergency Evacuation Plan**

The proposed Project includes two components for each CV Contractor:

- The approval and execution of a contract with Reclamation that converts, pursuant to the WIIN Act, the CV Contractor's existing water supply contract for CVP water to a repayment contract authorizing prepayment of outstanding CVP construction costs; and
- The approval and execution of a contract with Reclamation and DWR that renews the terms of an existing contract for the conveyance of the CV Contractor's CVP water until 2035.

The proposed conversion of the existing CVP contracts under the WIIN Act, and renewal and updating the conveyance provisions of the existing contracts into separate conveyance contracts, will allow the CV Contractors to continue receiving CVP water in the manner consistent with current and historical practices.

No changes over current conditions would occur. The conveyance contracts have three parties (Reclamation, DWR, CV Contractors) and provide for the continued conveyance of the CV Contractor's CVP water through SWP facilities in the same amounts and manner until 2035. Therefore, the proposed Project would not substantially impair an adopted emergency response plan or emergency evacuation plan, since the Project continues ongoing operations. No new facilities are being proposed with this Project. The proposed Project would comply with all CAL Fire regulations and continue to provide emergency vehicles access to the Project Area. Therefore, the Project would result in a less-than-significant impact.

#### **MITIGATION MEASURES**

No mitigation measures are required.

#### **LEVEL OF SIGNIFICANCE**

Impacts would be *less than significant*.

#### **Impact 4.5-2: Due to Slope, Prevailing Winds, and Other Factors, Exacerbate Wildfire Risks, and Thereby Expose Project Occupants to, Pollutant Concentrations from a Wildfire or the Uncontrolled Spread of a Wildfire**

The proposed Project includes two components for each CV Contractor:

- The approval and execution of a contract with Reclamation that converts, pursuant to the WIIN Act, the CV Contractor's existing water supply contract for CVP water to a repayment contract authorizing prepayment of outstanding CVP construction costs; and
- The approval and execution of a contract with Reclamation and DWR that renews the terms of an existing contract for the conveyance of the CV Contractor's CVP water until 2035.

The proposed conversion of the existing CVP contracts under the WIIN Act, and renewal and updating the conveyance provisions of the existing contracts into separate conveyance contracts, will allow the CV Contractors to continue receiving CVP water in the manner consistent with current and historical practices.

State Responsibility Areas (SRA) are recognized by the Board of Forestry and Fire Protection as areas where CAL FIRE is the primary emergency response agency responsible for fire suppression and prevention. According to available data, the Project is not in a designated State Responsibility Area (SRA) or Fire Hazard Severity Zone (FHSZ). The Project Area is entirely located in a Local Responsibility Area (LRA) and has been designated as Non-Wildland (CAL FIRE, 2018). Therefore, operation of the Project would pose minimal wildfire risk during operations in the Project Area, since the proposed Project would continue to operate in the same manner and no additional facilities are being proposed with this Project. Therefore, impacts would be less than significant.

**MITIGATION MEASURES**

No mitigation measures are required.

**LEVEL OF SIGNIFICANCE**

Impacts would be *less than significant*.

**Impact 4.5-3: Require the Installation or Maintenance of Associated Infrastructure (Such as Roads, Fuel Breaks, Emergency Water Sources, Power Lines or Other Utilities) that may Exacerbate Fire Risk or that may Result in Temporary or Ongoing Impacts to the Environment**

The proposed Project would not include any construction activities, as the Project will be using existing infrastructure. The Project would not require the installation or maintenance of associated infrastructure and will not exacerbate fire risk that may result in impacts to the environment. Therefore, impacts would be less than significant.

**MITIGATION MEASURES**

No mitigation measures are required.

**LEVEL OF SIGNIFICANCE**

Impacts would be *less than significant*.

**Impact 4.5-4: Expose People or Structures to Significant Risks, Including Downslope or Downstream Flooding or Landslides, as a Result of Runoff, Post-fire Slope Instability, or Drainage Changes**

The topography of the Project vicinity is relatively flat with little topographic variation. The surrounding land is relatively flat with a slight upwards slope towards the foothills of the Sierra Nevada to the east. Therefore, there is minimal risk of landslides.

The proposed Project would not include any construction activities, as the Project will be using existing infrastructure. Therefore, no construction activities involving soil disturbance, excavation, cutting/filling, stockpiling, and grading activities could result in increased erosion and sedimentation to surface waters.

The proposed Project would not alter the existing drainage patterns, which would not have the potential to result in erosion, siltation, or flooding on or offsite. In addition, there will not be any additional permanent structures that could affect drainage in the long-term.

Regarding drainage impacts, the Project does not propose any activities that would impact canals or rivers or result in adverse changes to the streams and creeks in the Project Area. No alterations of streams or rivers, which would result in substantial erosion or siltation, will occur. Therefore, impacts would be less than significant.

**MITIGATION MEASURES**

No mitigation measures are required.

**LEVEL OF SIGNIFICANCE**

Impacts would be *less than significant*.

**Cumulative Setting Impacts and Mitigation Measures****CUMULATIVE IMPACTS**

The incremental effects of the proposed Project related to wildfire, if any, are anticipated to be minimal. Compliance with federal, State, and local regulations would ensure that impacts from wildfires are avoided or controlled to minimize the risk to the public. Therefore, the proposed Project would not result in incremental effects to wildfire that could be compounded or increased when considered together with similar effects from other past, present, and reasonably foreseeable probable future projects. The proposed Project would not result in cumulatively considerable impacts to or from wildfires.

**MITIGATION MEASURES**

No mitigation measures are required.

**CUMULATIVE LEVEL OF SIGNIFICANCE**

Cumulative impacts would be *no impact*.

## **4.6 - Tribal Cultural Resources**

### **4.6.1 - INTRODUCTION**

This section evaluates potential impacts on tribal cultural resources. Tribal cultural resources are defined as sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either included or determined to be eligible for inclusion in the California Register of Historical Resources (California Register) or included in a local register of historical resources, or a resource determined by the Lead Agency, in its discretion and supported by substantial evidence, to be significant. A cultural landscape that meets these criteria is a tribal cultural resource to the extent that the landscape is geographically defined in terms of the size and scope of the landscape. Historical resources, unique archaeological resources, or non-unique archaeological resources may also be tribal cultural resources if they meet these criteria. Correspondence with the Native American Heritage Commission is included as Appendix C of this document.

### **4.6.2 - ENVIRONMENTAL SETTING**

The Cross Valley Canal (CVC) is a water conveyance facility in the southern SJV that extends from the California Aqueduct near Tupman, east to the FKC and beyond. The CVC can convey water to the CV Contractors' turnouts along the Friant-Kern Canal (FKC), on the east side of the San Joaquin Valley. The CV Contractors are located within Fresno, Kings, Tulare, and Kern counties. DWR operates the State Water Project (SWP), with facilities available for conveyance of CVP water for CV Contractors when unused capacity is present, located in Central California from Clifton Court Forebay south to the California Aqueduct's connection with the CVC.

### **4.6.3 - REGULATORY SETTING**

The Project is subject to these regulatory requirements as applicable.

#### **Federal**

##### **SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT (NHPA)**

Archaeological resources are protected through the National Historic Preservation Act (NHPA) of 1966, as amended (54 U.S.C. 300101 et seq.); and its implementing regulation, Protection of Historic Properties (36 CFR Part 800), the Archaeological and Historic Preservation Act of 1974, and the Archaeological Resources Protection Act of 1979 (NHPA, 2018). The NHPA authorized the expansion and maintenance of the National Register of Historic Places (NRHP), established the position of State Historic Preservation Officer (SHPO), and provided for the designation of State Review Boards, set up a mechanism to certify local governments to carry out the purposes of the NHPA, assisted Native American tribes to preserve their cultural heritage, and created the Advisory Council on Historic Preservation (ACHP). Prior to implementing an "undertaking" (e.g., issuing a federal permit),



Section 106 of the NHPA requires federal agencies to consider the effects of the undertaking on historic properties and to afford the ACHP and the SHPO a reasonable opportunity to comment on any undertaking that would adversely affect properties eligible for listing in the National Register of Historic Places (NRHP). As indicated in Section 101(d)(6)(A) of the NHPA, properties of traditional religious and cultural importance to a tribe are eligible for inclusion in the NRHP. Under the NHPA, a resource is considered significant if it meets the NRHP listing criteria at 36 Code of Federal Regulations (CFR) 60.4.

In addition, the NHPA (16 USC 470 et seq.) provides for the survey, recovery, and preservation of significant paleontological data when such data may be destroyed or lost due to a federal, federally licensed, or federally-funded project (NHPA, 2018).

### ***NATIONAL REGISTER OF HISTORIC PLACES (NRHP)***

The NRHP was established by the NHPA of 1966, as “an authoritative guide to be used by federal, State, and local governments, private groups, and citizens to identify the nation’s cultural resources and to indicate what properties should be considered for protection from destruction or impairment” (CFR 36 Section 60.2) (NHPA, 2018). The NRHP recognizes both historic-period and prehistoric archaeological properties that are significant at the national, State, and local levels.

To be eligible for listing in the NRHP, a resource must be significant in American history, architecture, archaeology, engineering, or culture. A property (districts, sites, buildings, structures, and objects of potential significance) is eligible for the NRHP if it is significant under one or more of the following four established criteria:

- **Criterion A:** It is associated with events that have made a significant contribution to the broad patterns of our history.
- **Criterion B:** It is associated with the lives of persons who are significant in our past.
- **Criterion C:** It embodies the distinctive characteristics of a type, period, or method of construction; represents the work of a master; possesses high artistic values; or represents a significant and distinguishable entity whose components may lack individual distinction.
- **Criterion D:** It has yielded, or may be likely to yield, information important in prehistory or history.

Cemeteries, birthplaces, or graves of historic figures; properties owned by religious institutions or used for religious purposes; structures that have been moved from their original locations; reconstructed historic buildings; and properties that are primarily commemorative in nature are not considered eligible for the NRHP unless they satisfy certain conditions. In general, a resource must be at least 50 years of age to be considered for the NRHP, unless it satisfies a standard of exceptional importance.

In addition to meeting the criteria of significance, a property must have *integrity*. Integrity is defined as “the ability of a property to convey its significance.” The NRHP recognizes seven qualities that, in various combinations, define integrity. To retain historic integrity a

property must possess several, and usually most, of these seven aspects. Thus, the retention of the specific aspects of integrity is paramount for a property to convey its significance. The seven factors that define integrity are location, design, setting, materials, workmanship, feeling, and association.

### ***CERTIFIED LOCAL GOVERNMENT***

The Certified Local Government Program is jointly administered by the National Park Service (NPS) and the SHPOs. The California Office of Historic Preservation manages the Certified Local Government (CLG) Program, in which the City participates. CLG status requires that the City meet certain requirements, including a Historic Preservation Ordinance, a citizen's commission, an inventory of local historic properties, adequate public participation, and compliance with CEQA.

### ***NATIVE AMERICA GRAVES PROTECTION AND REPATRIATION ACT OF 1990***

The Native American Graves Protection and Repatriation Act (NAGPRA) of 1990 sets provisions for the intentional removal and inadvertent discovery of human remains and other cultural items from federal and tribal lands. It clarifies the ownership of human remains and sets forth a process for repatriation of human remains and associated funerary objects and sacred religious objects to the Native American groups claiming to be lineal descendants or culturally affiliated with the remains or objects. It requires any federally-funded institution housing Native American remains or artifacts to compile an inventory of all cultural items within the museum or with its agency and to provide a summary to any Native American tribe claiming affiliation.

## ***State***

### ***CALIFORNIA ENVIRONMENTAL QUALITY ACT***

The CEQA Statute (PRC Section 21000 et seq.) and Guidelines (Title 14, California CCR Section 15000 et seq.) direct lead agencies to determine whether cultural resources are "historically significant." Generally, a cultural resource shall be considered "historically significant" if it is 50 years old or older; possesses integrity of location, design, setting, materials, workmanship, feeling, and association; and meets the requirements for listing on the CRHR under any one of the following criteria:

- Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
- Is associated with the lives of persons important in our past;
- Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or,
- Has yielded, or may be likely to yield, information important in prehistory or history.

Unique archaeological resources are also protected under CEQA. Unique archaeological resources are those resources that may not meet the above criteria but can clearly demonstrate that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria:

- Contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information;
- Has a special and particular quality such as being the oldest of its type or the best available example of its type; and
- Is directly associated with a scientifically recognized important prehistoric or historic event or person.

In addition, PRC Section 21074 defines a tribal cultural resource (TCR) as “a site, feature, place, or cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe.” TCRs may also include “non-unique archaeological resources” that may not be scientifically significant but still hold sacred or cultural value to a consulting tribe. A TCR is considered significant if it is: (1) listed or eligible for listing in the CRHR, or in a local register of historical resources as defined in PRC Section 5020.1(k); or (2) a TCR determined by the Lead Agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in PRC Section 5024.1(c). In applying these criteria applicable to TCRs, the Lead Agency must consider the significance of the resource to a California Native American tribe.

Under CEQA, a project with an effect that may cause a substantial adverse change in the significance of a historical resource or a TCR is a project that may have a significant effect on the environment (Title 14 CCR 15064.5, 2019b). Substantial adverse change in the significance of a historical resource or TCR is defined as physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings in a manner that materially impairs the significance of the resource that justifies its inclusion or eligibility to be included in the CRHR. Additionally, a project may have a substantial adverse change in the significance of a TCR if the adverse change is identified through consultation with any California Native American tribe that requests consultation and is traditionally and culturally affiliated with the geographic area of a proposed project (PRC Section 21084.2, 2014).

The cited statute and guidelines specify how cultural resources and TCRs are to be managed in the context of projects, such as the present Project. Briefly, archival and field surveys must be conducted, government-to-government consultation with California Native American tribes must occur and identified resources must be inventoried and evaluated in prescribed ways. Impacts on TCRs, prehistoric and historical archaeological resources, and built-environment resources such as standing structures, buildings, and objects deemed “historically significant” must be avoided or mitigated to the extent feasible (PRC Section 21081, 1972).

**CALIFORNIA REGISTER OF HISTORICAL RESOURCES**

According to the CEQA Guidelines, for a resource to be eligible for the CRHR, it must meet at least one of the criteria defined in Section 5024.1 of the California PRC:

- Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
- Is associated with the lives of persons important in our past;
- Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or
- Has yielded, or may be likely to yield, information important in history or prehistory.

In addition to these criteria, cultural resources must, except in rare circumstance, be 50 years old or older.

Integrity refers to the degree or extent to which a resource retains its original character. Ultimately, the question of integrity is answered by deciding whether the resource retains the identity for which it is significant. To facilitate this assessment, the OHP (1995) recognizes that the National Parks Service (2002:44–45) has identified seven aspects of integrity:

- Location is the place where the historic property was constructed or the place where the historic event occurred;
- Design is the combination of elements that create the form, plan, space, structure, and style of a property;
- Setting is the physical environment of a historic property;
- Materials are the physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic property;
- Workmanship is the physical evidence of the crafts of a particular culture or people during any given period in history or prehistory;
- Feeling is a property's expression of the aesthetic or historic sense of a particular period of time; and
- Association is the direct link between an important historic event or person and a historic property.

Only after significance is fully established is the issue of integrity addressed. To be eligible for the CRHR, a resource must possess both significance and integrity. Thus, cultural resources that are not significant per CRHR criteria are ineligible for inclusion in the CRHR and do not require an integrity assessment.

**NATIVE AMERICAN HERITAGE COMMISSION (NAHC)**

PRC Section 5097.91 established the Native American Heritage Commission (NAHC), the duties of which include inventorying of places of religious or social significance to Native

Americans and identifying known graves and cemeteries of Native Americans on private lands. PRC Section 5097.98 specifies a protocol to be followed when the NAHC receives notification of a discovery of Native American human remains from a county coroner.

### ***CALIFORNIA PUBLIC RECORDS ACT***

Sections 6254(r) and 6254.10 of the California Public Records Act were enacted to protect archaeological sites from unauthorized excavation, looting, or vandalism. Section 6254(r) explicitly authorizes public agencies to withhold information from the public relating to “Native American graves, cemeteries, and sacred places maintained by the Native American Heritage Commission.” Section 6254.10 specifically exempts from disclosure requests for “records that relate to archaeological site information and reports, maintained by, or in the possession of the Department of Parks and Recreation, the State Historical Resources Commission, the State Lands Commission, the NAHC, another State agency, or a local agency, including the records that the agency obtains through a consultation process between a Native American tribe and a State or local agency.”

### ***CALIFORNIA HEALTH AND SAFETY CODE, SECTIONS 7050 AND 7052***

Health and Safety Code, Section 7050.5, declares that, in the event of the discovery of human remains outside of a dedicated cemetery, all ground disturbance must cease, and the county coroner must be notified. Section 7052 establishes a felony penalty for mutilating, disinterring, or otherwise disturbing human remains, except by relatives.

### ***CALIFORNIA PENAL CODE, SECTION 622.5***

The California Penal Code, Section 622.5, provides misdemeanor penalties for injuring or destroying objects of historic or archaeological interest located on public or private lands, but specifically excludes the landowner.

### ***PUBLIC RESOURCES CODE, SECTION 5097.5***

PRC Section 5097.5 defines as a misdemeanor the unauthorized disturbance or removal of archaeological, historic, or paleontological resources located on public lands.

### ***ASSEMBLY BILL (AB) 52***

Assembly Bill (AB) 52 was approved by California State Governor Edmund Gerald “Jerry” Brown, Jr. on September 25, 2014. The Act amended PRC Section 5097.94, and added PRC Sections 21073, 21074, 21080.3.1, 21080.3.2, 21082.3, 21083.09, 21084.2, and 21084.3. AB 52 applies specifically to projects for which a Notice of Preparation (NOP) or a Notice of Intent to Adopt a Negative Declaration or Mitigated Negative Declaration (MND) is filed on or after July 1, 2015. The primary intent of AB 52 was to include California Native American Tribes early in the environmental review process and to establish a new category of resources related to Native Americans that require consideration under CEQA, known as tribal cultural resources. PRC Section 21074(a)(1) and (2) defines tribal cultural resources

as “sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe” that are either included or determined to be eligible for inclusion in the California Register or included in a local register of historical resources, or a resource that is determined to be a tribal cultural resource by a Lead Agency, in its discretion and supported by substantial evidence. On July 30, 2016, the California Natural Resources Agency adopted the final text for tribal cultural resources update to Appendix G of the CEQA Guidelines, which was approved by the Office of Administrative Law on September 27, 2016.

PRC Section 21080.3.1 requires that within 14 days of a Lead Agency determining that an application for a project is complete, or a decision by a public agency to undertake a project, the Lead Agency provide formal notification to the designated contact, or a tribal representative, of California Native American tribes that are traditionally and culturally affiliated with the geographic area of the project (as defined in PRC Section 21073) and who have requested in writing to be informed by the Lead Agency (PRC Section 21080.3.1, 1972). Tribes interested in consultation must respond in writing within 30 days from receipt of the Lead Agency’s formal notification and the Lead Agency must begin consultation within 30 days of receiving the tribe’s request for consultation (PRC Section 21080.3.1, 1972).

PRC Section 21080.3.2(a) identifies the following as potential consultation discussion topics: the type of environmental review necessary; the significance of tribal cultural resources; the significance of the project’s impacts on the tribal cultural resources; project alternatives or appropriate measures for preservation; and mitigation measures. Consultation is considered concluded when either: (1) the parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or (2) a party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached (PRC Section 21080.3.2, 1972).

If a California Native American tribe has requested consultation pursuant to Section 21080.3.1 and has failed to provide comments to the Lead Agency, or otherwise failed to engage in the consultation process, or if the Lead Agency has complied with Section 21080.3.1(d) and the California Native American tribe has failed to request consultation within 30 days, the Lead Agency may certify an EIR or adopt an MND (PRC Section 21082.3, 1972). PRC Section 21082.3(c)(1) states that any information, including, but not limited to, the location, description, and use of the tribal cultural resources, that is submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the Lead Agency or any other public agency to the public without the prior consent of the tribe that provided the information. If the Lead Agency publishes any information submitted by a California Native American tribe during the consultation or environmental review process, that information shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public.

Confidentiality, does not however apply to data or information that are, or become publicly available, are already in lawful possession of the project applicant before the provision of the

information by the California Native American tribe, are independently developed by the project applicant or the project applicant's agents, or are lawfully obtained by the project applicant from a third party that is not the Lead Agency, a California Native American tribe, or another public agency (PRC Section 21082.3, 1972).

Letters for consultation were sent out on October 21, 2020 and the following letters were received from tribes pursuant to AB 52 (see Appendix C) and no further consultation was requested from the tribes:

- Fernandeño Tataviam Band of Mission Indians, Jairo F. Avila, Tribal Historic and Cultural Preservation Officer;
- Agua Caliente Band of Cahuilla Indians, Lacy Padilla, Archaeologist;
- Juaneño Band of Mission Indians-Acjachemen Nation, Joyce Stanfield Perry, Tribal Manager;
- San Manuel Band of Mission Indians, Ryan Nordness, Cultural Resource Analyst; and
- Quechan Tribe of the Fort Yuma Reservation, Jill McCormick, Historic Preservation Officer.

One addition letter was received requesting additional consultation:

- Rincon Band of Luiseño Indians, Cheryl Madrigal, Tribal Historic Preservation Officer

#### **4.6.4 - IMPACTS AND MITIGATION MEASURES**

##### **Methodology**

##### **RECORDS SEARCH**

##### **Native American Heritage Commission**

On May 14, 2020, a request was submitted to the NAHC for a search of the Sacred Lands File to identify recorded sacred sites or areas of importance to local tribes within the Project Area. The NAHC responded on May 19, 2020 with its findings. A copy of the NAHC response letter is attached to Appendix C.

##### **Tribal Cultural Resources**

On May 19, 2020, the NAHC reported that its search of the Sacred Lands File did identify sacred sites or places of tribal importance in the Project Area. The NAHC recommended follow-up with tribes having an ancestral connection to the Project Area to give Native American groups the opportunity to share information about other cultural or tribal cultural resources that may be in or near the Project Area. The NAHC provided a contact list for outreach purposes (see Appendix C). LRTID has conducted government-to-government tribal consultation in compliance with AB 52.

### **Thresholds of Significance**

The following criteria, as established in Appendix G of the CEQA Guidelines, will be utilized to determine if a project could potentially have a significant impact:

- a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is listed or eligible for listing in the California register of historical resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k).
- b) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is a resource determined by the Lead Agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1.

### **Project Impacts**

**Impact 4.6-1: Cause a Substantial Adverse Change in the Significance of a Tribal Cultural Resource, Defined in Public Resources Code Section 21074 as Either a Site, Feature, Place, Cultural Landscape that is Geographically Defined in Terms of the Size and Scope of the Landscape, Sacred Place, or Object with Cultural Value to a California Native American Tribe, and that is Listed or Eligible for Listing in the California Register of Historical Resources, or in a Local Register of Historical Resources as Defined in Public Resources Code Section 5020.1(k)**

On May 19, 2020, the NAHC reported that its search of the Sacred Lands File did identify sacred sites or places of tribal importance in the Project Area. The NAHC recommended follow-up with tribes having an ancestral connection to the Project Area to give Native American groups the opportunity to share information about other cultural or tribal cultural resources that may be in or near the Project Area. Therefore, in compliance with AB 52 letters were sent out on October 21, 2020 to 93 Native American groups, as identified by NAHC. A copy of the NAHC response letter is attached to Appendix C.

The tribes had 30 days to respond to request further consultation, pursuant to Public Resource Code Section 21080.3.1(d). The following letters were received from tribes pursuant to AB 52 and no further consultation was requested from the tribes:

- Fernandeño Tataviam Band of Mission Indians, Jairo F. Avila, Tribal Historic and Cultural Preservation Officer;
- Agua Caliente Band of Cahuilla Indians, Lacy Padilla, Archaeologist;



- Juaneño Band of Mission Indians-Acjachemen Nation, Joyce Stanfield Perry, Tribal Manager;
- San Manuel Band of Mission Indians, Ryan Nordness, Cultural Resource Analyst; and
- Quechan Tribe of the Fort Yuma Reservation, Jill McCormick, Historic Preservation Officer.

One additional letter was received requesting further consultation pursuant to the proposed Project:

- Rincon Band of Luiseño Indians, Cheryl Madrigal, Tribal Historic Preservation Officer

The additional letter received from the Rincon Band of Luiseño Indians Tribe, requested to be included in the distribution list of the proposed Project. This tribe has been added to the distribution list of this Project.

The proposed Project includes the approval and execution of contracts converting CV Contractors' existing water supply contracts for CVP water with Reclamation pursuant to the Water Infrastructure Improvement for the Nation Act, Pub. L. 114-322 (WIIN Act) and the approval of contracts with DWR that renew the terms of existing contracts for the conveyance of CV Contractors' CVP water until 2035. The conveyance contracts have three parties (Reclamation, DWR, CV Contractors) and provide for the continued conveyance of the CV Contractor's CVP water through SWP facilities in the same amounts and manner. Under the proposed Project, the same contractual amount of water would be delivered to the same lands without the need for additional facility modifications or construction. Therefore, the proposed Project would not cause a substantial adverse change in the significance of a tribal cultural resource as defined in Public Resources Code Section 21074. Therefore, impacts would be less than significant.

#### **MITIGATION MEASURES**

No mitigation measures required.

#### **LEVEL OF SIGNIFICANCE**

Impacts would be *less than significant*.

**Impact 4.6-2: Cause a Substantial Adverse Change in the Significance of a Tribal Cultural Resource, Defined in Public Resources Code Section 21074 as Either a Site, Feature, Place, Cultural Landscape that is Geographically Defined in Terms of the Size and Scope of the Landscape, Sacred Place, or Object with Cultural Value to a California Native American Tribe, and that is a Resource Determined by the Lead Agency, in its Discretion and Supported by Substantial Evidence, to be Significant Pursuant to Criteria Set Forth in Subdivision (c) of Public Resources Code Section 5024.1. In Applying the Criteria Set Forth in Subdivision (c) of Public Resource Code Section 5024.1, the Lead Agency Shall Consider the Significance of the Resource to a California Native American Tribe**

As noted in Impact 4.6-1, above, tribal cultural resources were identified through the Sacred Lands File search by the NAHC. The NAHC recommended follow-up with tribes having an ancestral connection to the Project Area to give Native American groups the opportunity to share information about other cultural or tribal cultural resources that may be in or near the Project Area. Therefore, in compliance with AB 52 letters were sent out on October 21, 2020 to 93 Native American groups, as identified by NAHC. No grading and trenching, as well as other ground-disturbing actions are expected since the same contractual amount of water would be delivered to the same lands without the need for additional facility modifications or construction. Therefore, there is no potential to damage or destroy any potentially significant cultural resources within the Project Area, including historical or archaeological resources. Therefore, impacts would be less than significant.

#### **MITIGATION MEASURES**

No mitigation measures required.

#### **LEVEL OF SIGNIFICANCE**

Impacts would be *less than significant*.

#### **Cumulative Setting Impacts and Mitigation Measures**

##### **CUMULATIVE IMPACTS**

CEQA Guidelines Section 15130(a) states: An EIR shall discuss cumulative impacts of a project when the project's incremental effect is cumulatively considerable, as defined in Section 15065(a)(3). Where a Lead Agency is examining a project with an incremental effect that is not "cumulatively considerable," a Lead Agency need not consider that effect significant but shall briefly describe its basis for concluding that the incremental effect is not cumulatively considerable.

Under the proposed Project, the same contractual amount of water would be delivered to the same lands without the need for additional facility modifications or construction. Thus, no impacts to tribal cultural resources are expected from implementation of the proposed Project, and together with reasonably foreseeable future actions would not incrementally contribute to any considerable effects to the tribal cultural resources within the Project Area. Because the proposed Project is not expected to result in any direct or indirect effects to tribal and cultural resources as defined in Public Resources Code Section 21074. The proposed Project would not contribute cumulatively to any effects on tribal resources. Therefore, cumulative impacts will be less than significant.

#### **MITIGATION MEASURES**

No mitigation measures are required.

**CUMULATIVE LEVEL OF SIGNIFICANCE**

Cumulative impacts would be *less than significant*.

## **CHAPTER 5 - CONSEQUENCES OF PROJECT IMPLEMENTATION**

### **5.1 - Environmental Effects Found to be Less than Significant**

Section 15128 of the CEQA Guidelines requires that an Environmental Impact Report (EIR) “contain a statement briefly indicating the reasons that various possible significant effects of a project were determined not to be significant and were therefore not discussed in detail in the EIR.”

LTRID has engaged the public in the scoping of the environmental document, including a public scoping meeting on October 26, 2020. Comments received during scoping have been considered in the process of identifying issue areas that should receive attention in the EIR. The contents of this EIR were established based on the Notice of Preparation (NOP) prepared in accordance with the CEQA Guidelines and on public and agency input received during the scoping process.

After further study and environmental review in this EIR, direct and indirect impacts of the proposed Project would be less than significant or could be reduced to less-than-significant levels with mitigation measures for the resource areas listed below.

#### **5.1.1 - POTENTIAL FOR LESS THAN SIGNIFICANT IMPACTS TO OCCUR**

##### **Biological Resources**

- Impact 4.1-1: Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.
- Impact 4.1-2: Interfere substantially with the movement of any native resident or migratory fish or wildlife species, or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.
- Impact 4.1-3: Conflict with provisions of an adopted habitat conservation plan, natural communities conservation plan, or other approved local, regional, or State habitat conservation plan.

##### **Energy**

- Impact 4.2-1: Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during Project construction or operation.
- Impact 4.2-2: Conflict with or obstruct a State or local plan for renewable energy or energy efficiency.

### Greenhouse Gas Emissions

- Impact 4.3-1: Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment.
- Impact 4.3-2: Conflict with any applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases.

### Hydrology and Water Quality

- Impact 4.4-1: Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality.
- Impact 4.4-2: Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the Project may impede sustainable groundwater management of the basin.
- Impact 4.4-3(i): Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on- or off-site.
- Impact 4.4-3(ii): Substantially alter the existing drainage pattern of the site or area, including the alteration of the course of a stream or river or through the addition of impervious surfaces, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site.
- Impact 4.4-3(iii): Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or through the addition of impervious surfaces, in a manner which would create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff.
- Impact 4.4-3(iv): Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or through the addition of impervious surfaces, in a manner which would impede or redirect flood flows.
- Impact 4.4-4: In flood hazard, tsunami, or seiche zones, risk release of pollutants due to Project inundation.
- Impact 4.4-5: Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.

### Wildfire

- Impact 4.5-1: Substantially impair an adopted emergency response plan or emergency evacuation plan.
- Impact 4.5-2: Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose Project occupants to, pollutant concentration from a wildfire or the uncontrolled spread of a wildfire.
- Impact 4.5-3: Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities)

that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment.

- Impact 4.5-4: Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes.

### **Tribal Cultural Resources**

- Impact 4.6-1: Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is listed or eligible for listing in the California Register of Historical Resources, or in a Local Register of Historical Resources as defined in Public Resources Code Section 5020.1(k).
- Impact 4.6-2: Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is a resource determined by the Lead Agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1.

## **5.2 - Significant Environmental Effects that Cannot be Avoided**

Section 15126.2(c) of the CEQA Guidelines requires that the EIR describe any significant impacts, including those that can be mitigated but not reduced to less-than-significant levels. However, for the proposed Project, none of the potential effects from implementation of the proposed Project are significant and unavoidable.

## **5.3 - Growth Inducing Impacts**

Section 15126.2(e) of the CEQA Guidelines provides the following guidance on growth-inducing impacts: a project is identified as growth inducing if it “could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment.”

The proposed Project would not stimulate the economy to a level that would foster either economic or population growth. The conversion of each water supply contract and the renewal of a long-term conveyance contract would continue the availability of a water supply to areas that have been using water attributable to this same supply since the mid-1970s. The conversion of each water supply contract and the renewal of a long-term conveyance contract will enable the economies of those areas to maintain current activities. Therefore, the proposed Project would not directly stimulate demand for housing and local services and would not induce additional jobs or population in the Cross Valley Canal (CVC) contractors' water use service areas.

#### **5.4 - Significant Irreversible Changes**

Section 15126.2(d) of the CEQA Guidelines defines an irreversible impact as an impact that uses non-renewable resources during the initial and continued phases of the project. Irreversible impacts can also result from damage caused by environmental accidents associated with the project. A resource commitment is considered irreversible when direct and indirect impacts from its use limit future use options. Irreversible commitments apply primarily to non-renewable resources, such as cultural resources, and to those resources that are renewable only over long periods of time, such as soil productivity. A resource commitment is considered irretrievable when the use or consumption of the resource is neither renewable nor recoverable for future use. Irretrievable commitments apply to loss of production, harvest, or use of natural resources. None of the potential effects from implementation of the proposed Project would result in the irreversible and/or irretrievable commitments of resources as compared to existing conditions.

## CHAPTER 6 - ALTERNATIVES

### 6.1 - Introduction

CEQA requires that an EIR describe a range of reasonable alternatives to the project or to the location of the project site that could feasibly avoid or lessen any significant environmental impacts of the project while attaining most of the project's basic objectives. An EIR also must compare and evaluate the environmental effects and comparative merits of the alternatives. This chapter describes alternatives considered but eliminated from further consideration, including the reasons for elimination, and compares the environmental impacts of several alternatives retained with those of the Project.

The following are key provisions of the CEQA Guidelines (Section 15126.6):

- The discussion of alternatives shall focus on alternatives to the Project or its location that are capable of avoiding or substantially lessening any significant effects of the Project, even if these alternatives would impede to some degree the attainment of the Project objectives or would be costlier.
- The No Project Alternative shall be evaluated, along with its impacts. The no project analysis shall discuss the existing conditions at the time the notice of preparation was published, as well as what would be reasonably expected to occur in the foreseeable future if the Project were not approved, based on current plans and consistent with available infrastructure and community services.
- The range of alternatives required in an EIR is governed by a "rule of reason;" therefore, the EIR must evaluate only those alternatives necessary to permit a reasoned choice. The alternatives shall be limited to ones that would avoid or substantially lessen any of the significant effects of the Project.
- For alternative locations, only locations that would avoid or substantially lessen any of the significant effects of the Project need be considered for inclusion in the EIR.
- An EIR need not consider an alternative whose effects cannot be reasonably ascertained and whose implementation is remote and speculative.

The range of feasible alternatives is selected and discussed in a manner to foster meaningful public participation and informed decision-making. Among the factors that may be taken into account when addressing the feasibility of alternatives, as described in Section 15126.6(f)(1) of the CEQA Guidelines, are environmental impacts, site suitability, economic viability, availability of infrastructure, general plan consistency, regulatory limitations, jurisdictional boundaries, and whether the project proponent could reasonably acquire, control, or otherwise have access to an alternative site. An EIR need not consider an alternative whose effects could not be reasonably identified, whose implementation is remote or speculative, and that would not achieve the basic project objectives.

Under case law and CEQA Guidelines Section 15126.6(f), the discussion of alternatives need not be exhaustive and is subject to a rule of reason. CEQA Guidelines Section 15126.6(d) states that "if an alternative would cause one or more significant effects in addition to those



that would be caused by the project as proposed, the significant effects of the alternatives shall be discussed, but in less detail than the significant effects of the project as proposed.” Determining factors that may be used to eliminate alternatives from detailed consideration in an EIR are (a) failure to meet most of the basic project objectives, (b) infeasibility, or (c) inability to avoid significant environmental impacts. CEQA Guidelines Section 15364 defines “feasibility” as “Capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.”

Per Chapter 4, *Impacts Analysis*, of this EIR, impacts in this issue areas would be less than significant. Per the CEQA Guidelines, this section discusses alternatives. Section 6.2, *Project Objectives*, restates the Project proponent’s project objectives. Section 6.3, *Alternatives Eliminated from Further Consideration*, presents alternatives to the Project that were considered but eliminated for further analysis. Section 6.4, *Alternatives Analyzed in This EIR*, presents alternatives fully analyzed in this EIR, provides a comparison of alternatives, and makes a determination about the environmentally superior alternative.

### **6.1.1 - SIGNIFICANT IMPACTS OF THE PROJECT**

The implementation of the proposed Project would not result in significant and unavoidable impacts.

#### **No Potential for Impacts to Occur**

Potential environmental effects of the Project and mitigation measures are discussed in detail in Chapter 4 of this EIR. After full analysis, the following effects were determined to have no potential for impacts to occur:

#### **Biological Resources**

- Impact 4.1-1: Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.
- Impact 4.1-2: Interfere substantially with the movement of any native resident or migratory fish or wildlife species, or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.
- Impact 4.1-3: Conflict with provisions of an adopted habitat conservation plan, natural communities conservation plan, or other approved local, regional, or State habitat conservation plan.

#### **Energy**

- Impact 4.2-2: Conflict with or obstruct a State or local plan for renewable energy or energy efficiency.

## Hydrology and Water Quality

- Impact 4.4-1: Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality.
- Impact 4.4-2: Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the Project may impede sustainable groundwater management of the basin.
- Impact 4.4-3(i): Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on- or off-site.
- Impact 4.4-3(ii): Substantially alter the existing drainage pattern of the site or area, including the alteration of the course of a stream or river or through the addition of impervious surfaces, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site.
- Impact 4.4-3(iii): Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or through the addition of impervious surfaces, in a manner which would create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff.
- Impact 4.4-3(iv): Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or through the addition of impervious surfaces, in a manner which would impede or redirect flood flows.
- Impact 4.4-4: In flood hazard, tsunami, or seiche zones, risk release of pollutants due to Project inundation.

## ***Potential for Less than Significant Impacts***

### Energy

- Impact 4.2-1: Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during Project construction or operation.

### Greenhouse Gas Emissions

- Impact 4.3-1: Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment.
- Impact 4.3-2: Conflict with any applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases.

## Wildfire

- Impact 4.5-1: Substantially impair an adopted emergency response plan or emergency evacuation plan.
- Impact 4.5-2: Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose Project occupants to, pollutant concentration from a wildfire or the uncontrolled spread of a wildfire.
- Impact 4.5-3: Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment.
- Impact 4.5-4: Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes.

## Tribal Cultural Resources

- Impact 4.6-1: Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is listed or eligible for listing in the California Register of Historical Resources, or in a Local Register of Historical Resources as defined in Public Resources Code Section 5020.1(k).
- Impact 4.6-2: Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is a resource determined by the Lead Agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1.

### ***Potential for Less than Significant Impacts to Occur with Incorporation of Mitigation Measures***

Potential environmental effects of the Project and mitigation measures are discussed in detail in Chapter 4 of this EIR. After full analysis, no potential effects were determined to be less than significant with the incorporation of mitigation measures.

### ***Potential for Significant and Unavoidable Impacts to Occur***

Unavoidable adverse effects are environmental consequences of an action that cannot be avoided, either by changing the nature of the action or through mitigation if the action is undertaken. None of the potential effects from implementation of the proposed Project are significant and unavoidable.

### **6.1.2 - OTHER IMPACTS OF THE PROJECT**

Impacts of the Project on the other resources evaluated in this EIR were found to be either less than significant or less than significant after mitigation. Therefore, consideration of alternatives that would further reduce impacts on these resources is not required by CEQA. Only alternatives that reduce or substantially lessen the Project's impacts on biological resources, energy, greenhouse gas emissions, hydrology and water quality, wildfire, and tribal cultural resources are considered in this EIR. If one of the alternatives would cause a greater adverse impact on another resource, these impacts are disclosed in Section 6.4, *Alternatives Considered and Evaluated*. Otherwise, impacts to the remaining resources evaluated in this EIR are not discussed further in this section.

### **6.2 - Project Objectives**

The objectives of the CV Contractors' current water supply and conveyance contracts are:

- Avoid long-term overdraft by achieving a balanced groundwater budget;
- Maintain a diversified water supply, sufficient to supply water for all uses, even during supply shortages;
- Integrate groundwater management with use of CVP and other surface water supplies as available;
- Make use of current conveyance and distribution systems and facilities to fully utilize all water supplies;
- Avoid or correct groundwater levels that are too low to support existing wells;
- Maximize cropland preservation; and
- Maximize the efficiency of delivery, conveyance, and use of CVP water.

The primary objective of the proposed Project is to continue each of these objectives, by allowing CV Contractors to continue receiving CVP water in the manner consistent with historical practices, through the continuation of ongoing operations.

CEQA requires that an EIR describe a reasonable range of alternatives to the Project, or to the location of the Project, that would avoid or substantially lessen any of the significant effects of the Project and that would feasibly attain most of the basic project objectives (Title 14, Section 15126.6). Attainment of the Project objectives is discussed for each retained alternative in Section 6.4.

### **6.3 - Alternatives Considered but Rejected**

Non-renewal of existing water service contracts was considered as an alternative to the proposed Project but eliminated from further analysis because Reclamation is obligated, upon request, to renew the CV Contractors' water service contracts pursuant to the Central Valley Project Improvement Act. There were no other alternatives that were considered but rejected from evaluation in this EIR.

## **6.4 - Alternatives Considered and Evaluated**

An evaluation of five alternatives that were considered and evaluated are provided below. These alternatives represent a reasonable range of alternatives to the proposed Project. This analysis includes alternatives that could feasibly accomplish some of the basic objectives of the proposed Project and could potentially avoid or substantially lessen one or more of the significant effects. The following is an evaluation of each of the alternatives to the proposed Project that were further considered for analysis. Table 6-1 provides a comparison of the impacts of the alternatives to the proposed Project.

### **6.4.1 - ALTERNATIVE A - NO PROJECT ALTERNATIVE (NO WATER DELIVERY)**

This alternative assumes that there will be no water distribution, under SWP or WIIN Act, in the southern San Joaquin Valley. Typically, CV Contractors and private landowners within water district boundaries have fewer water supply options and turn to pumping groundwater to meet their water demands. In order to preserve groundwater levels, CV Contractors rely on surface water imported from CVP supplies to offset groundwater use. To accomplish importing Delta water, CV Contractors need to transfer, or exchange surface water supplies through either direct exchange or banking the water in reservoirs or groundwater banks. In the absence of a distribution system, the CV Contractors would have to resort to use other available water sources such as increased pumping of local groundwater and/or reduce water use by fallowing land. This alternative assumes that no water delivery will take place, no exchanges would occur, and there would be no mechanism for conveyance of water to the CV Contractors; therefore, increasing the historical practice of farmers pumping groundwater. This alternative would increase the demand of groundwater pumping, which would be in conflict with implementation of SGMA and would ultimately result in the fallowing of significant acreage currently in production.

### **6.4.2 - ALTERNATIVE B - NO PROJECT ALTERNATIVE (NO USE OF SWP FACILITIES)**

This alternative assumes that there will be no three-party contract between the CV Contractors, DWR, and Reclamation to convey the CV Contractors CVP supply through the Aqueduct. Water service contracts between CV Contractors and Reclamation would remain under this alternative. The CV Contractors would have to rely on other facilities and arrangements to convey their water supply from the Delta. In the absence of a conveyance contract with DWR, the CV Contractors would have to resort to one of several alternative means to obtain the available water supply to meet their water supply needs: (1) seek transfers and exchanges on the east side of the SJV using local facilities or the FKC; (2) seek transfers or exchanges with CVP contractors using the Delta Mendota Canal (DMC); (3) use other available water sources such as local groundwater; and/or (4) reduce water use by fallowing land.

This alternative assumes the continued delivery in the Delta of available CVP water between the CV Contractors and the United States, including the terms and conditions required by non-discretionary CVPIA provisions (considered as part of the Preferred Alternative of the CVPIA PEIS. However, this alternative assumes that the CV Contractors would endeavor to

receive their annual supply through water transfers, exchanges, and/or agreements to convey the water to the CV Contractors' water use service areas. No changes to the CV Contractors' water service areas or water contracts are part of this alternative. The CV Contractors' CVP water allocation will continue to be available and used for the exact same M&I and agricultural uses (i.e., row crops, orchards, vineyards, irrigated pasture, and various other agricultural uses) that have occurred since 1975.

This alternative assumes east side exchanges such as the exchanges that have occurred historically. This is similar to existing conditions in that the CV Contractors are currently provided with conveyance from DWR pursuant to existing IRCs. However, this alternative represents a complete loss of the supply historically conveyed through SWP facilities. The elimination of SWP facilities as part of the overall water conveyance service for the CV Contractors would severely limit the water available for east side exchanges. Ultimately, there would be variability in how the respective CV Contractors would resolve the issue of non-renewal of a long-term conveyance contract with DWR which would likely result in additional costs and uncertainty in the conveyance and the delivery of water to the CV Contractors. An estimate of the available surface water supply under this alternative would be five to 10 percent of the average historical deliveries. This estimate is based upon the fact that there has been capacity at Jones Pumping Plant in the past to move CV Contractors water, but this has only occurred once in the past 15 years. This is not a sufficient frequency to provide reliable replacement water.

In summary, this alternative assumes that CVP water would continue to be provided to the CV Contractors, but there would be no mechanism for conveyance of that water through SWP facilities. As a result of reduced water supplies the historical practice of farmers was pumping groundwater to make up the difference. This alternative assumes a similar response. The long-term increase in groundwater pumping would likely result in local conditions that were present before the CVC was constructed. However, with implementation of the Sustainable Groundwater Management Act (SGMA), which requires local agencies to develop Sustainable Groundwater Management Plans to account for additional groundwater pumping, which will likely be reduced over time. SGMA requires that by 2040 all high and medium priority groundwater basins achieve sustainability. Groundwater pumping will become less of an option as SGMA is implemented and following agricultural land more likely, increasing the impacts to groundwater for this alternative.

#### **6.4.3 - ALTERNATIVE C –SHORT-TERM CONVEYANCE AGREEMENTS TO USE SWP FACILITIES**

This alternative would allow CV Contractors to negotiate an agreement with DWR to convey water under the provisions of Water Code Sections 1810–1814. These provisions allow water to be conveyed in SWP facilities subject to available conveyance capacity, applicable regulatory constraints, and no harm to SWP contractors because of the conveyance of the water. These would be short-term, likely annual agreements, negotiated for each exchange or transfer that would be conveyed under the above provisions. Therefore, the CV Contractors may be negotiating one or more of these agreements per year. This would generate additional costs and delays for negotiating the agreements, require additional CEQA review, and create substantial uncertainty in the timing and delivery of available water

supply. There would be no guarantees from year to year that contract water would be available through these short-term agreements. The role of Reclamation in the conveyance would be reduced or eliminated, thereby reducing the opportunity for Reclamation and DWR to coordinate water delivery activities in the San Luis Canal (the joint facility). This alternative would result in annual water supply deliveries being 10 to 20 percent of the average historic deliveries. This estimate is based upon the fact that few if any water districts have successfully negotiated a wheeling agreement under Water Code Sections 1810–1814 during the entire history of the Cross Valley Canal conveyance contract. The likelihood of success is very limited.

#### **6.4.4 - ALTERNATIVE D – USE OF LONG-TERM SWP CONTRACTS TO CONVEY WATER ON BEHALF OF SWP CONTRACTOR**

In this alternative, the CV Contractors negotiate short-term agreements of transfers or exchanges of water with the long-term SWP contractor. The long-term SWP contractor may request of DWR conveyance services utilizing Article 55 of that SWP contractor’s contract to convey the procured non-SWP water. Deliveries would be subject to DWR having capacity to convey the non-SWP water without compromising the delivery of its SWP supplies for that year, meeting applicable regulatory constraints, and causing no harm to other SWP contractors.

Similar to *Alternative C*, agreements would be negotiated for each exchange or transfer with tremendous variability within a year and between years due to a limited number of exchange opportunities with SWP partners in any given year. This alternative would generate additional costs for negotiating the increased number of transfer or exchange agreements and environmental compliance. Agreements utilizing Article 55 of the SWP contractor’s long-term contract with DWR would have priority in the delivery of available water supply over water conveyed through short-term agreements under Water Code Sections 1810-1814 or the proposed Project since Article 55 agreements would fall under the priorities set forth in the respective long-term SWP Contract. Several contractors have utilized Article 55. Based on this historical record, *Alternative D* would result in surface water deliveries being about 50 percent of the average historical deliveries.

#### **6.4.5 - ALTERNATIVE E – SHORT-TERM CONVEYANCE OBLIGATIONS**

This alternative allows existing IRCs to continue to be renewed so that DWR’s existing contractual obligations to convey CVC Contract water remains in place. Continued renewal of existing IRCs would allow DWR to continue to convey the water for one- to two-year periods. This is similar to existing conditions in that the CV Contractors are currently provided with conveyance from DWR pursuant to existing IRCs. This alternative would result in improved reliability in the water supply over *Alternatives C* and *Alternative D* but not to the extent of the proposed Project. This would generate additional costs for negotiating the renewal of the existing IRCs every one to two years. Furthermore, the United States would not have met its statutory mandate pursuant to the CVPIA to enter into long-term water supply contracts with the CV Contractors, which would substantially undermine water supply reliability and potentially compromise long-term water resource management

and planning efforts being undertaken by the CV Contractors. This alternative would result in surface water deliveries of about 80 to 90 percent of the average historical deliveries. This estimate is based upon the fact that it can take approximately five months to acquire approvals from DWR and Reclamation for conveyance agreements, comply with CEQA/NEPA requirements and obtain applicable Water Resources Control Board approval. Because of the difficulty of identifying annual exchange partners in advance of knowing the availability of the water supply and the time required for approvals, often puts the time frame for this type of program outside the period when the water is needed.

### **6.5 - Environmentally Superior Alternative**

CEQA requires that LTRID identify an Environmentally Superior Alternative. The proposed Project is considered the environmentally superior alternative because it has no significant environmental impacts and avoids the possibility of failing to secure conveyance on individual exchanges. Failure to secure conveyance under the Alternative A (no water delivery) and Alternative B (because a long-term conveyance contract is not available) creates uncertainty in the water supply for CV Contractors and may lead to increased reliance on groundwater supplies. This in turn, represents a greater impact to the region's groundwater supply than with the proposed Project. *Alternatives C* and *Alternative D* each would have negative direct effects on air quality, greenhouse gas emissions, and surface and groundwater supplies. *Alternative E* have negative direct effects on groundwater because the CV Contractors would likely increase groundwater pumping for water supply. None of these alternatives is an environmentally superior alternative to the proposed Project. In summary, the proposed Project does not have any significant impacts in which an alternate would reduce; therefore, there the proposed Project is environmentally superior.

Finally, the proposed Project establishes a conveyance mechanism for the term of the contract and the provided certainty in water deliveries until February 28, 2035, when the conveyance contract expires.



**Table 6-1  
Impacts from Implementation of each Alternative Compared to Proposed Project**

Affected Resource	Proposed Project		Alternatives									
			Alternative A No Project (No Water Delivery)		Alternative B No Project (No Use of SWP Facilities)		Alternative C Short-Term Conveyance to Use SWP Facilities		Alternative D Use of Long-Term SWP Contracts to Convey Water on Behalf of SWP Contractor		Alternative E Short-Term Conveyance Obligations	
			Direct	Indirect	Direct	Indirect	Direct	Indirect	Direct	Indirect	Direct	Indirect
Agriculture	No Impact	No Impact	No Change	Increased Impact	No Change	Increased Impact	No Change	Increased Impact	No Change	Increased Impact	No Change	Increased Impact
Air Quality	No Impact	No Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact
Biological	No Impact	No Impact	No Change	No Change	Increased Impact	Increased Impact	No Change	No Change	No Change	No Change	No Change	No Change
Greenhouse Gas Emissions	No Impact	No Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact
Hydrology and Water Quality	No Impact	No Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact	Increased Impact
Tribal Resources	No Impact	No Impact	No Change	No Change	Increased Impact	Increased Impact	No Change	No Change	No Change	No Change	No Change	No Change

Increased Impact = Impacts are expected to increase in severity when compared to the Proposed Project.

No Change = There would be no change in the level of impact significance when compared to the Proposed Project. Impacts would essentially be the same as those identified for the Proposed Project.

No Impact = There would be no significant impacts associated with the alternative if it were to be implemented.

## **CHAPTER 7 - RESPONSES TO COMMENTS**

## **CHAPTER 8 - ORGANIZATIONS AND PERSONS CONSULTED**

Note: All of the below entities were either notified or contacted directly to ask for or directly receive consultation on their applicable area of expertise in respect to this proposed Project. This may not be an all-inclusive list.

### **8.1 - Federal Agencies**

- U.S. Bureau of Reclamation
- U.S. Environmental Protection Agency—Region IX
- U.S. Fish and Wildlife Service

### **8.2 - State Agencies**

- California Air Resources Board
- California Highway Patrol
- Department of Conservation
- Department of Parks and Recreation
- Department of Water Resources
- Department of Fish and Wildlife
- Department of Forestry and Fire Protection
- Native American Heritage Commission
- Office of Historic Preservation
- Department of Transportation District 06
- Regional Water Quality Control Board / Central Valley Region
- State Clearinghouse Office of Planning and Research

### **8.3 - Regional and Local**

- San Joaquin Valley Unified Air Pollution Control District
- Southern San Joaquin Valley Information Center
- Southern California Gas Company
- Southern California Edison

### **8.4 - Native American Consultation**

- Fernandeño Tataviam Band of Mission Indians
- Agua Caliente Band of Cahuilla Indians
- Juaneño Band of Mission Indians-Acjachemen Nation
- San Manuel Band of Mission Indians
- Quechan Tribe of the Fort Yuma Reservation
- Rincon Band of Luiseño Indians

## **CHAPTER 9 - PREPARERS**

### **9.1 - Lead Agency**

#### ***LOWER TULE RIVER IRRIGATION DISTRICT***

Mr. Eric Limas, General Manager

### **9.2 - Technical Assistance**

#### ***QK***

Mr. Christopher Mynk, AICP, Principal Planner

Ms. Jaymie Brauer, Principal Planner

Mr. Michael Glietz, GIS Analyst

Mr. Carlos Rojas, Associate Planner

Ms. Vanessa Williams, Assistant Project Manager

**CHAPTER 10 - BIBLIOGRAPHY**

- CAL FIRE. (2018). *California Fire Hazard Severity Zone Viewer*. Retrieved from <https://gis.data.ca.gov/datasets/789d5286736248f69c4515c04f58f414>
- CAL FIRE. (2020). *2020 Incident Archive*. Retrieved from <https://www.fire.ca.gov/incidents/2020/>
- California Department of Tax and Fee Administration. (2019a). *Business Taxes and Fees in California*. Retrieved from <http://www.cdtfa.ca.gov/taxes-and-fees/MVF-10-Year-Report.pdf>
- California Department of Water Resources. (2020). *Greenhouse Gas Emissions Reduction Plan*. Retrieved from <https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/All-Programs/Climate-Change-Program/Climate-Action-Plan/Files/CAP-I-GGERP-Update-2020.pdf?la=en&hash=0BA702D428A58FCA286EBA4A6C0BF1D2CA532F52>
- California Energy Commission . (2016a). *2016-2017 Investment Plan Update for the Alternative and Renewable Fuel and Vehicle Technology Program*. Retrieved from <https://www.energy.ca.gov/2015publications/CEC600-2015-014/CEC-600-2015-014-CMF.pdf>
- California Energy Commission. (2005). *California Water-Energy Relationship*.
- California Polytechnic State University. (2003). *California Agricultural Water Electrical Energy Requirements, Irrigation Training and Research Center*. Retrieved from <http://www.itrc.org/reports/cec/energyreq.html>
- California Public Utilities Commission. (2020). Retrieved from <https://www.cpuc.ca.gov/>
- CARB. (2008). *Climate Change Scoping Report: A Framework for Change*. Retrieved from <http://www.arb.ca.gov/cc/scopingplan/document/scopingplandocument/hm>.
- CDTFA. (2019b). *Fuel Taxes Statistics & Reports*. Retrieved from <https://www.cdtfa.ca.gov/taxes-and-fees/spftrpts.htm>
- DPR. (2021). *Law - The Pesticide Contamination Prevention Act*. Retrieved 2021, from [https://www.cdpr.ca.gov/docs/emon/grndwtr/gwp\\_laws.htm#:~:text=Reports%20of%20additional%20pesticides%20in,%2D13152\)%20requires%20DPR%20to%3A&text=Identify%20agricultural%20pesticides%20with%20the%20potential%20to%20pollute%20groundwater](https://www.cdpr.ca.gov/docs/emon/grndwtr/gwp_laws.htm#:~:text=Reports%20of%20additional%20pesticides%20in,%2D13152)%20requires%20DPR%20to%3A&text=Identify%20agricultural%20pesticides%20with%20the%20potential%20to%20pollute%20groundwater).
- DWR. (2014c). *Summary of Recent, Historical, and Estimated Potential for Future Land Subsidence in California*. Retrieved from [http://www.water.ca.gov/groundwater/docs/Summary\\_of\\_Recent\\_Historical\\_Potential\\_Subsidence\\_in\\_CA\\_Final\\_with\\_Appendix.pdf](http://www.water.ca.gov/groundwater/docs/Summary_of_Recent_Historical_Potential_Subsidence_in_CA_Final_with_Appendix.pdf)

- DWR. (2015). *California's Groundwater Update 2013*.
- DWR. (2020). *Chronological Reconstructed Sacramento and San Joaquin Valley Water Year Hydrologic Classification Indices*. Retrieved from <https://cdec.water.ca.gov/reportapp/javareports?name=WSIHIST>
- DWR. (2021). *Basin Prioritization*. Retrieved from <https://water.ca.gov/Programs/Groundwater-Management/Basin-Prioritization>
- Faunt. (2009). *Groundwater Availability of the Central Valley Aquifer, California*.
- Holland, R.F. (1986). *Preliminary Descriptions of the Terrestrial Natural Communities of California*. California Department of Fish and Game, Sacramento, CA.
- Ireland, R.F. (1986). *Land Subsidence in the San Joaquin Valley, California, as of 1983*.
- KCAG. (2014). *Regional Climate Action Plan*. Retrieved from <http://www.kingscog.org/vertical/sites/%7BC427AE30-9936-4733-B9D4-140709AD3BBF%7D/uploads/RegionalCAP-GHGAppendices.pdf>
- Mayer and Laudenslayer. (1988). *A Guide to Wildlife Habitats of California*. Sacramento, CA.
- Moyle. (2002). *Inland Fishes of California*. University of California Press.
- NatureServe. (2008). *International Ecological Classification Standard: Terrestrial Ecological Classifications*. Nature Central Databases. Arlington, VA, US. Retrieved from [https://tpwd.texas.gov/landwater/land/tcap/documents/TBPR\\_ecological\\_systems.pdf](https://tpwd.texas.gov/landwater/land/tcap/documents/TBPR_ecological_systems.pdf)
- NHPA. (2018). *National Historic Preservation Act*. Retrieved from <https://www.nps.gov/subjects/historicpreservation/national-historic-preservation-act.htm>
- NHTSA. (2019). *Corporate Average Fuel Economy*. Retrieved from <https://www.nhtsa.gov/laws-regulations/corporate-average-fuel-economy>
- NMFS. (1993). *Final Rule: Designated Critical Habitat; Sacramento River Winter-run Chinook Salmon*.
- NMFS. (2004). *Biological Opinion on the Long Term Central Valley Project and State Water Project Operations Criteria and Plan*.
- NMFS. (2005). Endangered and threatened species; designation of critical habitat for seven evolutionarily significant units of Pacific salmon and steelhead in California.
- NMFS. (2006). Endangered and Threatened Wildlife and Plants: Threatened Status for Southern Distinct Population Segment of North American Green Sturgeon.

- NOAA. (2019). *Biological Opinion on Long-Term Operations of the Central Valley Project and the State Water Project*. Retrieved from <https://repository.library.noaa.gov/view/noaa/22046>
- Reclamation. (2020). *California Great Basin Region*. Retrieved 2021, from Project Details: [https://www.usbr.gov/mp/nepa/nepa\\_project\\_details.php?Project\\_ID=41341](https://www.usbr.gov/mp/nepa/nepa_project_details.php?Project_ID=41341)
- San Joaquin River Restoration Program. (2020). *Flow Conditions*. Retrieved from <http://www.restoresjr.net/restoration-flows/flow-schedule/>
- San Joaquin Valley Air Pollution District. (2019). *About the District*. Retrieved from [https://www.valleyair.org/General\\_info/aboutdist.htm](https://www.valleyair.org/General_info/aboutdist.htm)
- SJVAPCD. (2012). *Ambient Air Quality Standards and Valley Attainment Status*. Retrieved from <https://www.valleyair.org/aqinfo/attainment.htm>
- South Coast Air Quality Management District. (2012). *Regulations & Other Commitments*. Retrieved from <https://www.aqmd.gov/home/air-quality/clean-air-plans/air-quality-mgt-plan/facility-based-mobile-source-measures/regs-commitments>
- U.S. Bureau of Reclamation. (2001). *Biological Opinion on U.S. Bureau of Reclamation Long Term Contract Renewal of Friant Division and CVC Contractors: U.S. Bureau of Reclamation and U.S. Fish and Wildlife Service*.
- USFWS. (1994). Critical Habitat Determination for the Delta Smelt.
- USFWS. (2005). *Reinitiation of Formal and Early Section 7 Endangered Species Consultation on the Coordinated Operations of the Central Valley Project and State Water Project and the Operational Criteria and Plan to Address Potential Critical Habitat Issues*. Retrieved from <https://www.usbr.gov/mp/bdo/docs/ba-final-biological-assessment.pdf>
- USFWS. (2019). *Biological Opinion- For the Reinitiation of Consultation on the Coordinated Operations of the Central Valley Project and State Water Project*. Retrieved from [https://www.fws.gov/sfbaydelta/CVP-SWP/documents/10182019\\_ROC\\_BO\\_final.pdf](https://www.fws.gov/sfbaydelta/CVP-SWP/documents/10182019_ROC_BO_final.pdf)

**APPENDIX A**

**INITIAL STUDY/NOTICE OF PREPARATION**



### Notice of Completion & Environmental Document Transmittal

Mail to: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044 (916) 445-0613  
For Hand Delivery/Street Address: 1400 Tenth Street, Sacramento, CA 95814

SCH #

**Project Title:** The Cross-Valley Canal (CVC) Contractors Conversion of Water Supply Contracts and Renewal of Conveyance

Lead Agency: Lower-Tule River Irrigation District Contact Person: Eric Limas, General Manager  
Mailing Address: 357 East Olive Avenue Phone: (559) 686-4716  
City: Tipton Zip: 93272 County: Tulare

**Project Location:** County: Fresno, Kern, Kings & Tulare City/Nearest Community:

Cross Streets: N/A Zip Code: N/A

Longitude/Latitude (degrees, minutes and seconds): ° ' " N / ° ' " W Total Acres:

Assessor's Parcel No.: N/A Section: Twp.: Range: Base:

Within 2 Miles: State Hwy #: N/A Waterways: N/A  
Airports: N/A Railways: N/A Schools: N/A

**Document Type:**

- |   |  |                                    |  |
|---|--|------------------------------------|--|
| CEQA: <input checked="" type="checkbox"/> NOP | <input type="checkbox"/> Draft EIR                 | NEPA: <input type="checkbox"/> NOI | Other: <input type="checkbox"/> Joint Document |
| <input type="checkbox"/> Early Cons           | <input type="checkbox"/> Supplement/Subsequent EIR | <input type="checkbox"/> EA        | <input type="checkbox"/> Final Document        |
| <input type="checkbox"/> Neg Dec              | (Prior SCH No.)                                    | <input type="checkbox"/> Draft EIS | <input type="checkbox"/> Other:                |
| <input type="checkbox"/> Mit Neg Dec          | Other:   | <input type="checkbox"/> FONSI     |  |

**Local Action Type:**

- |   |   |  |  |
|---|---|--|--|
| <input type="checkbox"/> General Plan Update    | <input type="checkbox"/> Specific Plan            | <input type="checkbox"/> Rezone                            | <input type="checkbox"/> Annexation                        |
| <input type="checkbox"/> General Plan Amendment | <input type="checkbox"/> Master Plan              | <input type="checkbox"/> Prezone                           | <input type="checkbox"/> Redevelopment                     |
| <input type="checkbox"/> General Plan Element   | <input type="checkbox"/> Planned Unit Development | <input type="checkbox"/> Use Permit                        | <input type="checkbox"/> Coastal Permit                    |
| <input type="checkbox"/> Community Plan         | <input type="checkbox"/> Site Plan                | <input type="checkbox"/> Land Division (Subdivision, etc.) | <input checked="" type="checkbox"/> Other: Water Supply Co |

**Development Type:**

- |   |  |
|---|--|
| <input type="checkbox"/> Residential: Units _____ Acres _____                 | <input type="checkbox"/> Transportation: Type _____  |
| <input type="checkbox"/> Office: Sq.ft. _____ Acres _____ Employees _____     | <input type="checkbox"/> Mining: Mineral _____   |
| <input type="checkbox"/> Commercial: Sq.ft. _____ Acres _____ Employees _____ | <input type="checkbox"/> Power: Type _____ MW _____  |
| <input type="checkbox"/> Industrial: Sq.ft. _____ Acres _____ Employees _____ | <input type="checkbox"/> Waste Treatment: Type _____ MGD _____                                   |
| <input type="checkbox"/> Educational: _____                                   | <input type="checkbox"/> Hazardous Waste: Type _____   |
| <input type="checkbox"/> Recreational: _____                                  | <input checked="" type="checkbox"/> Other: Conversion of Water Supply Contracts and Renewal of C |
| <input type="checkbox"/> Water Facilities: Type _____ MGD _____               |  |

**Project Issues Discussed in Document:**

- |  |   |  |  |
|--|---|--|--|
| <input type="checkbox"/> Aesthetic/Visual                | <input type="checkbox"/> Fiscal                     | <input type="checkbox"/> Recreation/Parks                | <input checked="" type="checkbox"/> Vegetation               |
| <input type="checkbox"/> Agricultural Land               | <input type="checkbox"/> Flood Plain/Flooding       | <input type="checkbox"/> Schools/Universities            | <input checked="" type="checkbox"/> Water Quality            |
| <input checked="" type="checkbox"/> Air Quality          | <input type="checkbox"/> Forest Land/Fire Hazard    | <input type="checkbox"/> Septic Systems                  | <input checked="" type="checkbox"/> Water Supply/Groundwater |
| <input type="checkbox"/> Archeological/Historical        | <input type="checkbox"/> Geologic/Seismic           | <input type="checkbox"/> Sewer Capacity                  | <input type="checkbox"/> Wetland/Riparian                    |
| <input checked="" type="checkbox"/> Biological Resources | <input type="checkbox"/> Minerals                   | <input type="checkbox"/> Soil Erosion/Compaction/Grading | <input type="checkbox"/> Growth Inducement                   |
| <input type="checkbox"/> Coastal Zone                    | <input type="checkbox"/> Noise                      | <input type="checkbox"/> Solid Waste                     | <input type="checkbox"/> Land Use                            |
| <input type="checkbox"/> Drainage/Absorption             | <input type="checkbox"/> Population/Housing Balance | <input type="checkbox"/> Toxic/Hazardous                 | <input checked="" type="checkbox"/> Cumulative Effects       |
| <input type="checkbox"/> Economic/Jobs                   | <input type="checkbox"/> Public Services/Facilities | <input type="checkbox"/> Traffic/Circulation             | <input checked="" type="checkbox"/> Other: Energy/Wildfire   |

**Present Land Use/Zoning/General Plan Designation:**

**Project Description:** (please use a separate page if necessary)

The approval and execution of agreements converting CVC Contractors' existing water supply agreements for CVP Water with Reclamation pursuant to the Water Infrastructure Improvement for the Nation Act, Pub. L. 114-322 (WIIN Act); and the approval of agreements with DWR that renew the terms of existing agreements for the conveyance of CVC Contractors' CVP Water until 2035. The conveyance agreements have three parties (Reclamation, DWR, CVC Contractors) and provide for the continued conveyance of the CVC Contractors' CVP Water through SWP facilities in the same amounts and manner.

Note: The State Clearinghouse will assign identification numbers for all new projects. If a SCH number already exists for a project (e.g. Notice of Preparation or previous draft document) please fill in.

## Reviewing Agencies Checklist

Lead Agencies may recommend State Clearinghouse distribution by marking agencies below with an "X".  
If you have already sent your document to the agency please denote that with an "S".

<input type="checkbox"/> Air Resources Board	<input checked="" type="checkbox"/> Office of Historic Preservation
<input type="checkbox"/> Boating & Waterways, Department of	<input type="checkbox"/> Office of Public School Construction
<input type="checkbox"/> California Emergency Management Agency	<input type="checkbox"/> Parks & Recreation, Department of
<input checked="" type="checkbox"/> California Highway Patrol	<input type="checkbox"/> Pesticide Regulation, Department of
<input checked="" type="checkbox"/> Caltrans District #6	<input type="checkbox"/> Public Utilities Commission
<input type="checkbox"/> Caltrans Division of Aeronautics	<input checked="" type="checkbox"/> Regional WQCB #5
<input type="checkbox"/> Caltrans Planning	<input checked="" type="checkbox"/> Resources Agency
<input type="checkbox"/> Central Valley Flood Protection Board	<input type="checkbox"/> Resources Recycling and Recovery, Department of
<input type="checkbox"/> Coachella Valley Mtns. Conservancy	<input type="checkbox"/> S.F. Bay Conservation & Development Comm.
<input type="checkbox"/> Coastal Commission	<input type="checkbox"/> San Gabriel & Lower L.A. Rivers & Mtns. Conservancy
<input type="checkbox"/> Colorado River Board	<input type="checkbox"/> San Joaquin River Conservancy
<input type="checkbox"/> Conservation, Department of	<input type="checkbox"/> Santa Monica Mtns. Conservancy
<input type="checkbox"/> Corrections, Department of	<input type="checkbox"/> State Lands Commission
<input type="checkbox"/> Delta Protection Commission	<input type="checkbox"/> SWRCB: Clean Water Grants
<input type="checkbox"/> Education, Department of	<input type="checkbox"/> SWRCB: Water Quality
<input type="checkbox"/> Energy Commission	<input checked="" type="checkbox"/> SWRCB: Water Rights
<input type="checkbox"/> Fish & Game Region #4	<input type="checkbox"/> Tahoe Regional Planning Agency
<input type="checkbox"/> Food & Agriculture, Department of	<input checked="" type="checkbox"/> Toxic Substances Control, Department of
<input type="checkbox"/> Forestry and Fire Protection, Department of	<input checked="" type="checkbox"/> Water Resources, Department of
<input type="checkbox"/> General Services, Department of	Other: _____
<input type="checkbox"/> Health Services, Department of	Other: _____
<input type="checkbox"/> Housing & Community Development	
<input checked="" type="checkbox"/> Native American Heritage Commission	

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**Local Public Review Period (to be filled in by lead agency)**

Starting Date October 5, 2020 Ending Date November 4, 2020

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**Lead Agency (Complete if applicable):**

Consulting Firm: \_\_\_\_\_ Applicant: \_\_\_\_\_  
 Address: \_\_\_\_\_ Address: \_\_\_\_\_  
 City/State/Zip: \_\_\_\_\_ City/State/Zip: \_\_\_\_\_  
 Contact: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Phone: \_\_\_\_\_

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Signature of Lead Agency Representative:  Date: 10/5/20

Authority cited: Section 21083, Public Resources Code. Reference: Section 21161, Public Resources Code.

**NOTICE OF PREPARATION (NOP) OF A DRAFT ENVIRONMENTAL IMPACT REPORT AND PUBLIC SCOPING MEETING FOR THE CROSS-VALLEY CANAL (CVC) CONTRACTORS CONVERSION OF WATER SUPPLY CONTRACTS AND RENEWAL OF CONVEYANCE CONTRACTS**

**TO:** State Clearinghouse, Responsible, Trustee, and Interested Agencies; and other Interested Parties and Individuals.

**FROM:** The Lower-Tule River Irrigation District (LTRID)

**SUBJECT:** Notice of Preparation of a Draft Environmental Impact Report (EIR)

**DATE:** October 5, 2020 to November 4, 2020

**Action:** The Lower-Tule River Irrigation District (LTRID) is designated as Lead Agency under the California Environmental Quality Act (CEQA) pursuant to an agreement among LTRID, all of the Cross-Valley Canal Contractors (CVC Contractors) and the Department of Water Resources (DWR) and the authority granted to them pursuant to CEQA Guidelines Section 15051(d). LTRID will be responsible for preparing an Environmental Impact Report (EIR) pursuant to CEQA (Public Resources Code [PRC] Section 21000 et seq.) and the CEQA Guidelines. In accordance with Section 15082 of the CEQA Guidelines, LTRID has prepared this Notice of Preparation (NOP).

The purpose of this NOP is to solicit comments from public agencies and other interested parties on the scope and content of the information to be addressed in the EIR. The NOP must contain sufficient information describing the proposed Project and its potential environmental effects to enable agencies and the public to make a meaningful response.

**Project Title:** The Cross-Valley Canal (CVC) Contractors Conversion of Water Supply Contracts and Renewal of Conveyance Contracts (Project).

**Project Summary:** The CVC Contractors consist of seven agencies (LTRID, Pixley Irrigation District, Kern-Tulare Water District, Hills Valley Irrigation District, Tri-Valley Water District, the County of Tulare and the County of Fresno). The proposed Project is the conversion of each of the CVC Contractors' water supply contracts with the U.S. Bureau of Reclamation (Reclamation) pursuant to the Water Infrastructure Improvement for the Nation Act, Pub. L. 114-322 (WIIN Act); and the renewal of a long-term conveyance agreement by each of the CVC Contractors with the Reclamation and the California Department of Water Resources (DWR).

**Written Comments:** The LTRID requests that any potential Responsible or Trustee Agencies responding to this NOP reply in a manner consistent with Section 15082(b) of the CEQA Guidelines, which allows for submittal of any comments in response to this notice no later than 30 days after receipt of the NOP. **Comments in response to this NOP will be accepted through 5:00 p.m., November 4, 2020.**

Please send your written comments to:

Attn: Eric Limas, General Manager  
Lower-Tule River Irrigation District  
357 East Olive Avenue  
Tipton, CA 93272  
Email: [ltrid@ltrid.org](mailto:ltrid@ltrid.org)

Please reference “Notice of Preparation of Draft EIR for the CVC Contractors Conversion of Water Supply Contracts and Renewal of Conveyance Contracts.” Please include your name, address, and phone number and/or email address so that we may contact you for clarification, if necessary.

**Public Scoping Meeting:** In addition to the opportunity to submit written comments, one public scoping meeting will be held by LTRID to inform interested parties about the proposed Project, and to provide agencies and the public with an opportunity to provide comments on the scope and content of the EIR. This meeting will be held virtually on October 26, 2020 at 11:00am. To join the meeting and provide comment, please click the following link:

<https://zoom.us/j/97325786843?pwd=OExVU3ZPUy91TTBoSnZxNVNYS05mdz09>

Meeting ID: 973 2578 6843

Passcode: 361766

One tap mobile

+16699009128,,97325786843#,,,,,0#,,361766# US (San Jose)

+13462487799,,97325786843#,,,,,0#,,361766# US (Houston)

Dial by your location

+1 669 900 9128 US (San Jose)

+1 346 248 7799 US (Houston)

+1 253 215 8782 US (Tacoma)

+1 312 626 6799 US (Chicago)

+1 646 558 8656 US (New York)

+1 301 715 8592 US (Germantown)

Meeting ID: 973 2578 6843

Passcode: 361766

Find your local number: <https://zoom.us/u/axequix9z>

**Project Location:** The Cross-Valley Canal (CVC) is a water conveyance facility in the southern San Joaquin Valley that extends from the California Aqueduct near Tupman, east to the Kern River. The CVC can convey water to the CVC Contractors’ turn-outs along the Friant-Kern Canal (FKC), on the east side of the San Joaquin Valley. The CVC Contractors are located within Fresno, Kings, Tulare, and Kern Counties. DWR operates the State Water Project (SWP), with facilities available for conveyance of CVP Water for CVC Contractors when unused capacity is present, located in Central California from Clifton Court Forebay south to the California Aqueduct’s connection with the CVC.

**Project Background:** The CVC Contractors historically relied on groundwater for their water supply. In late 1975 and early 1976, the CVC Contractors entered into the Original Contracts with Reclamation and DWR for the delivery and conveyance of surface water from the federal Central Valley Project (CVP Water), thereby reducing their reliance on groundwater. The CVC Contractors' water supply is CVP water made available by Reclamation. The proposed Project includes converting CVC Contractors' related water supply agreements for CVP Water with Reclamation pursuant to the WIIN Act. The WIIN Act is comprehensive legislation relating to water infrastructure. Section 4011 of the WIIN Act directs Reclamation to convert water service contracts to repayment contracts on an accelerated schedule upon a contractor's request and authorizes prepayment of outstanding Central Valley Project construction costs, as follows:

- Conversion and prepayment of current water service contracts executed under Section 9 (c) (2) and 9 (e) of the 1939 Reclamation Project Act (1939 Act).
- Prepayment of obligations under contracts executed in accordance with Section 9(d) of the 1939 Act, also referred to as Existing Repayment Contracts.
- Repayment is either a lump sum or by accelerating prepayment of the remaining construction costs obligations. Obligations will be discounted by  $\frac{1}{2}$  the Treasury Rate. Irrigation contractors may elect either lump sum or accelerated prepayment while municipal and industrial contractors may only pay in lump sum.

The execution and approval of a repayment contract between the United States and the CVC Contractors will provide the CVC Contractors with a CVP Water supply in the same amounts and manner as is provided under existing water service agreements.

CVP Water made available to the CVC Contractors may then be conveyed by DWR from the Harvey O. Banks Pumping Plant (Banks) near Byron, California to the CVC through the SWP facilities including the California Aqueduct (Aqueduct). Because Reclamation generally lacks capacity or ability to deliver this supply to the CVC Contractors, conveyance service is provided by DWR when there is excess capacity at Banks and SWP facilities. Based on CVP-wide operational analysis and considerations, the CVC Contractors receive CVP Water through either exchange agreements with other contractors located on eastside of the San Joaquin Valley or by direct delivery from the FKC to their turnouts on the FKC. CVC Contractors receive up to 128,300 acre-foot (af), unless otherwise specified in existing agreements, of their aggregate total contract quantity per Federal Water Year, which commences on March 1<sup>st</sup> of each year. CVP and SWP operations State Water Resources Control Board Water Right Decision D1641 (Revised March 15, 2000) amended Reclamation's water rights to include diversion of CVP Water "to serve the Cross-Valley Canal contractors" from the SWP's Banks Pumping Plant. The Addendum to the Coordinated Operations Agreement between the United States and the State of California for Coordinated Operation of the Central Valley Project and the State Water Project dated December 12, 2018 further provided that "this Article does not alter the Cross-Valley Canal Contractors' priority to pumping at the Harvey O. Banks Pumping Plan, as now stated in Revised Water Rights Decision 1641 (March 15, 2000)."

For each exchange mechanism, the CVC Contractors' CVP Water is made available and that water is conveyed to another agency in exchange for an amount of water that is returned to the CVC Contractors through SWP, CVP or other facilities. Exchange agreements have been negotiated among CVC Contractors individually or collectively and other water agencies. Such exchanges are contemplated in the CVC Contractors' Original Contracts and existing water supply contracts. The proposed Project assumes that up to the existing contract quantities for CVC Contractors' CVP Water will continue to be conveyed by DWR through SWP facilities when capacity is available. The term of the proposed conveyance agreements is through February 28, 2035 which may be renewed on terms mutually agreeable to the Parties.

Typically, DWR conveys CVP Water from Banks into the Aqueduct and conveys this water to the CVC at Reach 12E of the Aqueduct, thence conveyed to the CVC contractors. The Dos Amigos Pumping Plant (Dos Amigos) is also used to convey this water. Provided there is available space within San Luis Reservoir, such space may be used for temporary storage. Water from the Aqueduct can be conveyed through the CVC into the FKC for direct deliveries to some of the CVC contractors. CVP Water is made available by Reclamation at Banks and O'Neill Forebay. Conveyance of CVP Water at Banks for CVC Contractors is subordinate to SWP needs. DWR thus only pumps and conveys CVP Water through the Aqueduct for CVC Contractors when unused capacity is available. Typically, deliveries of CVP Water to CVC Contractors occur in the spring or late summer to fall. During such times, Reclamation makes the CVC Contractors' CVP Water available and that water may be conveyed to another agency in exchange for an amount of water that is returned to the CVC Contractors through other facilities. In compliance with applicable legal requirements, such exchanges may be unbalanced in volume or time. Specifically, the CVC Contractors may give up and never receive some amount of water in the exchange (up to 2:1 average exchange ratio over a 10-year period), or the exchange may involve a return of the supply to the CVC Contractor during different times of the year, or in different years.

In the past, the most common exchange has been between CVC Contractors and Arvin-Edison Water Storage District (Arvin-Edison) in Kern County. Arvin-Edison would take delivery of the CVC Contractors' CVP Water through the Aqueduct and the CVC, and then provide its CVP Water from Millerton Lake and/or the FKC to the CVC Contractors. Exchanges with other public agencies located in the San Joaquin Valley have been or will be analyzed in the EIR, and fall into the following general categories:

- Exchanges with CVP contractors.
- Exchanges with SWP contractors.
- Exchanges with water users in the Tulare Lake Basin

**Previous Environmental Documentation:** A Notice of Preparation was prepared by the Lead Agency for a similar project in 2011 (SCH#2011051022), the Draft EIR was circulated on June 30, 2016. The Draft EIR was not certified by the Lead Agency. Since that time, project adjustments have been made. This NOP accounts for those adjustments and will replace the previously circulated version. A new State Clearinghouse Number will be assigned to the Project. The Lead

Agency may utilize information from the previous documents; however, this NOP and Draft EIR will be independent of the previous project.

**Project Description:** The proposed Project includes:

(1) the approval and execution of agreements converting CVC Contractors' existing water supply agreements for CVP Water with Reclamation pursuant to the Water Infrastructure Improvement for the Nation Act, Pub. L. 114-322 (WIIN Act); and

(2) the approval of agreements with DWR that renew the terms of existing agreements for the conveyance of CVC Contractors' CVP Water until 2035. The conveyance agreements have three parties (Reclamation, DWR, CVC Contractors) and provide for the continued conveyance of the CVC Contractors' CVP Water through SWP facilities in the same amounts and manner.

**Project Alternatives and Impacts:** The EIR will assess the physical changes to the environment that may result from implementation of the proposed Project, compare environmental effects of the alternatives, and identify mitigation measures for potentially significant impacts. A reasonable range of appropriate alternatives in addition to the No Project Alternative will be discussed in the EIR. Environmental issues raised during public scoping will be incorporated into the draft EIR. Potential environmental impacts (direct, indirect, and cumulative) to be analyzed in the EIR for the Project and No Project Alternative are included in the attached Initial Study Checklist. Based on the CEQA Initial Study checklist, the proposed Project would not result in adverse impacts to the following environmental resources. Therefore, these impacts will not be further evaluated in the Draft EIR:

#### Aesthetics

- a) Would the Project have a substantial adverse effect on a scenic vista?
- b) Would the Project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway?
- c) Would the Project, in non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings?
- d) Would the Project create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?

#### Agriculture and Forestry Resources

- a) Would the Project convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?
- b) Would the Project conflict with existing zoning for agricultural use or a Williamson Act Contract?
- c) Would the Project conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public

Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?

- d) Would the Project result in the loss of forest land or conversion of forest land to non-forest use?
- e) Would the Project involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?

### **Air Quality**

- a) Would the Project Conflict with or obstruct implementation of the applicable air quality plan?
- b) Would the Project result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is non-attainment under an applicable federal or State ambient air quality standard?
- c) Would the Project expose sensitive receptors to substantial pollutant concentrations?
- d) Would the Project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

### **Biological Resources**

- b) Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?
- c) Would the Project have a substantial adverse effect on State or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?
- e) Would the Project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

### **Cultural Resources**

- a) Would the Project cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?
- b) Would the Project cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?
- c) Would the Project disturb any human remains, including those interred outside of formal cemeteries?

### **Geology and Soils**

- a(i) Would the Project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?
- a(ii) Would the Project expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking?



- a(iii) Would the Project expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving seismic-related ground failure, including liquefaction?
- a(iv) Would the Project expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving landslides?
- b) Would the Project result in substantial soil erosion or the loss of topsoil?
- c) Would the Project be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the Project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?
- d) Would the Project be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?
- e) Would the Project have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater?
- f) Would the Project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

#### **Hazards and Hazardous Materials**

- a) Would the Project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?
- a) Would the Project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?
- b) Would the Project emit hazardous emissions or involve handling hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?
- c) Would the Project be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?
- d) For a Project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project result in a safety hazard or excessive noise for people residing or working in the Project area?
- e) Would the Project impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?
- f) Would the Project expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?

#### **Hydrology and Water Quality**

- d) Would the Project, in flood hazard, tsunami, or seiche zones, risk release of pollutants due to Project inundation?

#### **Land Use and Planning**

- a) Would the Project physically divide an established community?

- b) Would the Project cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

### **Mineral Resources**

- a) Would the Project result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the State?
- b) Would the Project result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?

### **Noise**

- a) Would the Project result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the Project in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies?
- b) Would the Project result in generation of excessive groundborne vibration or groundborne noise levels?
- c) For a Project located within the vicinity an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project expose people residing or working in the Project area to excessive noise levels?

### **Population and Housing**

- a) Would the Project Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?
- b) Would the Project displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

### **Public Services**

- i-v) Would the Project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or to other performance objectives for any of the public services - Fire Protection? Police Protection? Schools? Parks? Other Public Facilities?

### **Recreation**

- a) Would the Project Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?
- b) Would the Project include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?

### Transportation

- a) Would the Project conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?
- b) Would the Project conflict with or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?
- c) Would the Project substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?
- d) Would the Project result in inadequate emergency access?

### Tribal Cultural Resources

- a) Would the Project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?
- b) Would the Project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is a resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?

### Utilities and Service Systems

- a) Would the Project require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction of which could cause significant environmental effects?
- b) Would the Project have sufficient water supplies available to serve the Project and reasonably foreseeable future development during normal, dry, and multiple dry years?
- c) Would the Project result in a determination by the wastewater treatment provider that serves or may serve the Project that it has adequate capacity to serve the Project's projected demand in addition to the provider's existing commitments?
- d) Would the Project generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

- e) Would the Project comply with federal, State, and local statutes and regulations related to solid waste?

All other CEQA checklist (Appendix G) impact categories will be discussed further in the Draft EIR.

## SECTION 1 - INITIAL STUDY

### 1.1 - Environmental Factors Potentially Affected

The environmental factors checked below would be potentially affected by this Project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Aesthetics                             | <input type="checkbox"/> Agriculture and Forestry Resources            | <input type="checkbox"/> Air Quality                     |
| <input checked="" type="checkbox"/> Biological Resources        | <input type="checkbox"/> Cultural Resources                            | <input checked="" type="checkbox"/> Energy               |
| <input type="checkbox"/> Geology and Soils                      | <input checked="" type="checkbox"/> Greenhouse Gas Emissions           | <input type="checkbox"/> Hazards and Hazardous Materials |
| <input checked="" type="checkbox"/> Hydrology and Water Quality | <input type="checkbox"/> Land Use and Planning                         | <input type="checkbox"/> Mineral Resources               |
| <input type="checkbox"/> Noise                                  | <input type="checkbox"/> Population and Housing                        | <input type="checkbox"/> Public Services                 |
| <input type="checkbox"/> Recreation                             | <input type="checkbox"/> Transportation and Traffic                    | <input type="checkbox"/> Utilities and Service Systems   |
| <input checked="" type="checkbox"/> Wildfire                    | <input checked="" type="checkbox"/> Mandatory Findings of Significance |  |

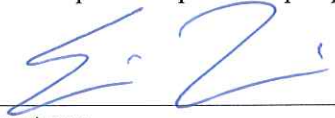
### 1.2 - Determination

On the basis of this initial evaluation:

- I find that the proposed Project COULD NOT have a significant effect on the environment, and no further analysis is warranted.
- I find that the proposed Project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed Project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the Project have been made by or agreed to by the Project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed Project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed Project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one

effect (a) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (b) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENT IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

- I find that although the proposed Project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed Project, nothing further is required.



Signature

Eric Limas, General Manager

Printed Name



Date

For

### **1.3 - Evaluation of Environmental Impacts**

1. A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to Projects like the one involved (e.g., the Project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on Project-specific factors as well as general standards (e.g., the Project will not expose sensitive receptors to pollutants, based on a Project-specific screening analysis).
2. All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as Project-level, indirect as well as direct, and construction as well as operational impacts.
3. Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
4. "Negative Declaration: Less Than Significant with Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less-Than-Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less-than-significant level (mitigation measures from "Earlier Analyses," as described in (5) below, may be cross-referenced).
5. Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
  - a. Earlier Analysis Used. Identify and state where they are available for review.
  - b. Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
  - c. Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the Project.

6. Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
7. Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
8. This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a Project's environmental effects in whatever format is selected.
9. The explanation of each issue should identify:
  - a. The significance criteria or threshold, if any, used to evaluate each question; and
  - b. The mitigation measure identified, if any, to reduce the impact to less than significant.



	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
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**1.3.1 - AESTHETICS**

Except as provided in Public Resources Code Section 21099, would the Project:

a. Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion**

**Impact #1.3.1a – Would the Project have a substantial adverse effect on a scenic vista?**

The proposed Project would continue conveyance of the CVC Contractors’ existing CVP water supply using existing facilities and would not result in construction of any new facilities. The proposed Project would not affect a scenic vista, substantially damage scenic resources, degrade the existing visual quality of the Project Area, or create a new source of light or glare. The Project’s appearance would not change or degrade the visual character of the site. The Project would not result in a substantial impact to the visual quality of the area. Therefore, the project would have no impact and no further analysis is warranted.

**Impact #1.3.1b – Would the Project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway?**

See Impact #1.3.1a, above.

**Impact #1.3.1c – Would the Project, in non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings?**

See Impact #1.3.1a, above.

**Impact #1.3.1d – Would the Project create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?**

See Impact #1.3.1a, above.

Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
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### 1.3.2 - AGRICULTURE AND FORESTRY RESOURCES

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the State’s inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the Project:

a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Conflict with existing zoning for agricultural use or a Williamson Act Contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

#### Discussion

**Impact #1.3.2a – Would the Project convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?**

The proposed Project would continue conveyance of the CVC Contractors’ existing CVP water supply using existing facilities and would not result in construction of any new facilities. The

proposed Project would not directly or indirectly affect existing prime farmland, unique farmland, or farmland of statewide importance within the Project Area. Therefore, the project would have no impact and no further analysis is warranted.

**Impact #1.3.2b – Would the Project conflict with existing zoning for agricultural use or a Williamson Act Contract?**

The proposed Project would continue conveyance of the CVC Contractors' existing CVP water supply using existing facilities and would not result in construction of any new facilities, and would not directly or indirectly conflict with the zoning or use of agricultural lands within the Project Area. Therefore, the project would have no impact and no further analysis is warranted.

**Impact #1.3.2c – Would the Project conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?**

See Impacts #1.3.2c, above.

The proposed Project would continue conveyance of the CVC Contractors' existing CVP water supply using existing facilities and would not result in construction of any new facilities, therefore, the proposed Project would not conflict with or cause the rezoning of forest land, timberland, or Timberland Production land. Nor would the proposed Project result in the loss or conversion of forest land. Therefore, the project would have no impact and no further analysis is warranted.

**Impact #1.3.2d – Would the Project result in the loss of forest land or conversion of forest land to non-forest use?**

See Impacts #1.3.2c, above.

**Impact #1.3.2e – Would the Project involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?**

See Impacts #1.3.2c, above.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
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### 1.3.3 - AIR QUALITY

Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations. Would the Project:

- |    |  |                          |                          |                          |                                     |
|----|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Conflict with or obstruct implementation of the applicable air quality plan?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is non-attainment under an applicable federal or State ambient air quality standard? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | Expose sensitive receptors to substantial pollutant concentrations?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d. | Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

#### **Discussion**

#### **Impact #1.3.3a – Would the Project Conflict with or obstruct implementation of the applicable air quality plan?**

No changes over current conditions would occur; thus, the proposed Project would not conflict with or obstruct implementation of any applicable air quality plans. Electric power to lift water into the Aqueduct would continue to be provided by means of Reclamation’s existing and permitted hydropower facilities. The conveyance of CVP water to the CVC Contractors and potential Exchange Agencies (other CVP Contractors or non-CVP Contractors) would continue to be implemented via gravity flow and/or pumping using electric motors, which have no direct emissions. Therefore, the project would have no impact and no further analysis is warranted.

#### **Impact #1.3.3b – Would the Project result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is non-attainment under an applicable federal or State ambient air quality standard?**

See Impact #1.3.3a, above. The proposed Project would not result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is non-attainment under an applicable federal or State ambient air quality standard. Therefore, the project would have no impact and no further analysis is warranted.

**Impact #1.3.3c – Would the Project expose sensitive receptors to substantial pollutant concentrations?**

See Impact #3.4.3a, above. The current operations do not expose sensitive receptors to substantial pollutant concentrations, because the facilities involved in the conveyance of CVC Contract water are located in rural areas that are not in proximity to sensitive resources. No changes over current conditions would occur. Therefore, the project would have no impact and no further analysis is warranted.

**Impact #1.3.3d: Would the Project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?**

The current operations do not create objectionable odors because pumping either relies on gravity flow or electrical power. Therefore, the project would have no impact and no further analysis is warranted.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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**1.3.4 - BIOLOGICAL RESOURCES**

Would the Project:

a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Have a substantial adverse effect on State or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species, or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or State habitat conservation plan?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Discussion**

**Impact #1.3.4a – Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?**

Impacts to biological resources and sensitive plant communities may be potentially significant and will be analyzed in the EIR.

**Impact #1.3.4b – Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?**

The proposed Project would not adversely affect any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the CDFW or USFWS, because no new construction or diversions are being proposed, and the CVC Contractors would not be able to expand their water use service areas, bring native or fallowed lands (fallowed for 3 years or more) into cultivation, or alter current environmental conditions without further environmental review and approval. Therefore, the proposed Project would not result in direct or indirect adverse impacts to riparian habitats or other sensitive natural communities. Therefore, no further analysis is warranted.

**Impact #1.3.4c – Would the Project have a substantial adverse effect on State or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?**

The proposed Project would not affect any federally-protected wetlands, because no new construction or diversions are being proposed, and the CVC Contractors would not be able to expand their water use service areas, bring native or fallowed lands (fallowed for 3 years or more) into cultivation, or alter current environmental conditions without further environmental review and approval. The proposed Project would not result in direct or indirect adverse impacts to federally protected wetlands. Therefore, no further analysis is warranted.

**Impact #1.3.4d – Would the Project interfere substantially with the movement of any native resident or migratory fish or wildlife species, or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?**

Impacts to movement of native resident or migratory fish or wildlife may be potentially significant and will be analyzed in the EIR.

**Impact #1.3.4e – Would the Project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?**

The proposed Project of continued conveyance of the CVC Contractors' existing CVP water supply would not conflict with any local policies or ordinances protecting biological resources. Therefore, the Project would have no impact and no further evaluation is required in the EIR.

**Impact #1.3.4f – Would the Project conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or State habitat conservation plan?**



Impacts to adopted habitat conservation plan, natural conservation plan, or other approved local, regional, or State habitat conservation plan may be potentially significant and will be analyzed in the EIR.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
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### 1.3.5 - CULTURAL RESOURCES

Would the Project:

a. Cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

#### **Discussion**

#### **Impact #1.35a – Would the Project cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?**

As defined by CEQA Guidelines Section 15064.5, "historical resources" are:

- A resource listed in or determined to be eligible by the State Historical Resources Commission, for listing in the California Register of Historical Resources (Public Resource Code Section 5024.1, Title 14 California Code of Regulations, Section 4850 et seq.).
- A resource included in a local register of historical resources, as defined in Section 5020.1(k) of the Public Resources Code or identified as significant in an historical resource survey meeting the requirements Section 5024.1(g) of the Public Resources Code, shall be presumed to be historically or culturally significant. Public agencies must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant.
- Any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California may be considered to be an historical resource, provided the lead agency's determination is supported by substantial evidence in light of the whole record. Generally, a resource shall be considered by the lead agency to be "historically significant" if the resource meets the criteria for listing on the California Register of Historical Resources (Public Resources Code Section 5024.1, Title 14 CCR, Section 4852) including the following:

- Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
- Is associated with the lives of persons important in our past;
- Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or
- Has yielded, or may be likely to yield, information important in prehistory or history.

The proposed Project would not change the significance of a historical resource, change an archaeological resource, destroy a paleontological resource or geologic feature, or disturb and human remains. Therefore, cultural resources will not be evaluated further in the EIR.

**Impact #1.3.5b – Would the Project cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?**

See discussion of Impact #1.3.5a, above.

**Impact #1.3.5c – Would the Project disturb any human remains, including those interred outside of formal cemeteries?**

See Impact #1.3.5. a, above. The proposed Project does not include any construction components or changes that would affect the physical environment and would not disturb any known human remains, including those interred outside of formal cemeteries. Therefore, cultural resources will not be evaluated further in this EIR.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
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**1.3.6 - ENERGY**

Would the Project:

- |   |                          |                          |                                     |                          |
|---|--------------------------|--------------------------|-------------------------------------|--------------------------|
| a. Result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during Project construction or operation? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| b. Conflict with or obstruct a State or local plan for renewable energy or energy efficiency?   | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

**Discussion**

**Impact #1.3.6a – Would the Project result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during Project construction or operation?**

The proposed Project would use electric power to lift water into the Aqueduct and such power would continue to be provided by means of Reclamation’s hydropower facilities. The conveyance of CVP water to the CVC Contractors and potential Exchange Agencies (other CVP Contractors or non-CVP Contractors) would continue to be implemented via gravity flow and/or pumping using electric motors. This impact will further be evaluated in the EIR.

**Impact #1.3.6b – Would the Project conflict with or obstruct a State or local plan for renewable energy or energy efficiency?**

See Impact #1.3.6a, above. The proposed Project would be consistent and not conflict with or obstruct a State of local plan related to renewable energy or energy consumption. Impacts would be less than significant. This impact will further be evaluated in the EIR.

Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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### 1.3.7 - GEOLOGY AND SOILS

Would the Project:

a. Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii. Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii. Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv. Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the Project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- f. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

### ***Discussion***

**Impact #1.3.7a(i) – Would the Project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?**

The proposed Project would continue conveyance of the CVC Contractors' existing CVP water supply using existing facilities and would not result in construction of any new facilities. The proposed Project would not expose people or structures to potential risk from rupture of a known earthquake fault, seismic ground shaking, seismic-related ground failure, or landslides. The proposed Project would not result in substantial soil erosion or topsoil loss, located in a region of unstable soils, be located on expansive soils, or be located in areas unable to support the use of septic tanks. Therefore, geology and soils in the Project Area would not be affected from the proposed Project and further analysis of this issue is not warranted in the EIR.

**Impact #1.3.7a(ii) – Would the Project expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving strong seismic ground shaking?**

See Impact #1.3.7a(i), above.

**Impact #1.2.7a(iii) – Would the Project expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving seismic-related ground failure, including liquefaction?**

See Impact #1.3.7a(i), above.

**Impact #1.3.7a(iv) – Would the Project expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving landslides?**

See Impact #1.3.7a(i), above.

**Impact #3.4.7b – Would the Project result in substantial soil erosion or the loss of topsoil?**

See Impact #1.3.7a(i), above.

**Impact #1.3.7c – Would the Project be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the Project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?**

See Impact #1.3.7a(i), above.

**Impact #1.3.7d – Would the Project be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?**

See Impact #1.3.7a(i), above.

**Impact #1.3.7e – Would the Project have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater?**

See Impact #1.3.7a(i), above.

**Impact #1.3.7f – Would the Project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?**

See Impact #1.3.7a(i), above.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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**1.3.8 - GREENHOUSE GAS EMISSIONS**

Would the Project:

- |  |                          |                          |                                     |                          |
|--|--------------------------|--------------------------|-------------------------------------|--------------------------|
| a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?        | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| b. Conflict with any applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

***Discussion***

**Impact #1.3.8a – Would the Project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?**

Implementation of the proposed Project would not include any construction components or changes in conveyance methods; however, this impact would be further evaluated in the EIR.

**Impact #1.3.8b – Would the Project conflict with any applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases?**

Implementation of the proposed Project would not include any construction components or changes in conveyance methods; however, the proposed Project will be analyzed for applicability to any GHG plan, policy or regulation of an agency adopted for the purposes of reducing GHG emissions; therefore, this impact would be further evaluated in the EIR.



	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
<b>1.3.9 - HAZARDS AND HAZARDOUS MATERIALS</b>				
Would the Project:				
a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Emit hazardous emissions or involve handling hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. For a Project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project result in a safety hazard or excessive noise for people residing or working in the Project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion**

**Impact #1.3.9a – Would the Project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?**

The proposed Project would not create a significant public hazard through transport or disposal of hazardous materials, through upset or accident conditions, through hazardous emissions, through location on a hazardous materials site, through location near an airport, through interference with emergency response, or through exposure of people to risk from a wildland fire. Therefore, hazards and hazardous materials in the project Area would not be affected from the proposed Project. Therefore, no further analysis is warranted.

**Impact #1.3.9b – Would the Project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?**

See Impact #1.3.9a, above.

**Impact #1.3.9c – Would the Project emit hazardous emissions or involve handling hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?**

See Impact #1.3.9a, above.

**Impact #1.3.9d – Would the Project be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?**

See Impact #1.3.9a, above.

**Impact #1.3.9e – For a Project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project result in a safety hazard or excessive noise for people residing or working in the Project area?**

See Impact #1.3.9a, above.

**Impact #1.3.9f – Would the Project impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?**

See Impact #1.3.9a, above.

**Impact #1.3.9g – Would the Project expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?**

See Impact #1.3.9a, above.

Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than- Significant Impact	No Impact
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**1.3.10 - HYDROLOGY AND WATER QUALITY**

Would the Project:

- |      |  |                                     |                          |                          |                                     |
|------|--|-------------------------------------|--------------------------|--------------------------|-------------------------------------|
| a.   | Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
| b.   | Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the Project may impede sustainable groundwater management of the basin?                                 | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
| c.   | Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner that would: |                                     |                          |                          |                                     |
| i.   | Result in substantial erosion or siltation on- or off-site?  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
| ii.  | Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
| iii. | Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or                              | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
| iv.  | Impede or redirect flood flows?  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
| d.   | In flood hazard, tsunami, or seiche zones, risk release of pollutants due to Project inundation?   | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e.   | Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |

## ***Discussion***

### **Impact #1.3.10a – Would the Project violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?**

Implementation of the proposed Project would not result in any direct or indirect change in the quality of water delivered to the CVC Contractors. The water supply source(s) would remain the same as would the means of conveyance. Potential sources of contaminants, such as accidental spills or leaks into the conveyance system or source water, would be similar to those under existing conditions. The potential for source water to infiltrate to groundwater would remain the same. However, this impact will further be evaluated in the EIR.

### **Impact #1.3.10b – Would the Project substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted)?**

Implementation of the proposed Project would not result in any direct or indirect change in groundwater; however, this impact will further be evaluated in the EIR.

### **Impact #1.3.10c(i) – Would the Project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation on site or off site?**

The proposed Project would not result in any direct or indirect change in the direction of flow in any natural or man-made channels relative to existing conditions. The options for conveyance of CVP water to the CVC Contractors would remain the same. The CVC conveyance system is strictly controlled by the CVC Contractors to avoid exceeding the capacity of the system. The potential for uncontrolled release of conveyed water (and any resulting erosion, sedimentation or flooding) is very low. Therefore, no direct or indirect impacts related to increased erosion, siltation, or increased flooding would occur.

Additionally, implementation of the proposed Project would not result in any direct or indirect change in the potential to increase runoff. No new facilities or impervious surfaces would be constructed. No new sources of runoff would be created, and therefore, no direct or indirect impacts would occur. However, these issues will be further evaluated in the EIR.

### **Impact #3.4.10c(ii) – Would the Project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in a substantial increase of the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?**

See Impact #1.3.10c.i, above.

### **Impact #1.3.10c(iii) – Would the Project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through**

the addition of impervious surfaces, in a manner that would create or create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?

See Impact #1.3.10c.i, above.

**Impact #1.3.10c(iv) – Would the Project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner that would impede or redirect flood flows?**

See Impact #1.3.10c.i, above.

**Impact #1.3.10d – Would the Project, in flood hazard, tsunami, or seiche zones, risk release of pollutants due to Project inundation?**

Implementation of the proposed Project would not result in the construction of any new structures. Operation of the conveyance system delivering CVP water to CVC Contractors would remain the same and no additional people would be needed to operate the system. The proposed Project would not increase flood risk for people or structures. Therefore, no direct or indirect impacts would occur.

The proposed Project would not contribute to the potential to contribute to inundation by a seiche or tsunami. Under existing conditions, the potential for a seiche or tsunami is very low due to the absence of water bodies capable of generating such waves. The relatively gentle topography does not present a hazard of inundation by a mudflow. These conditions would not change under the proposed Project. There would be no impacts and further analysis is not warranted in the EIR.

**Impact #1.3.10e – Would the Project conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?**

This impact will be evaluated in the EIR.

Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
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### **1.3.11 - LAND USE AND PLANNING**

Would the Project:

- |    |   |                          |                          |                          |                                     |
|----|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Physically divide an established community?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating a negative environmental effect? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

***Discussion***

**Impact #1.3.11a – Would the Project physically divide an established community?**

The proposed Project would continue conveyance of the CVC Contractors’ existing CVP water supply using existing facilities and would not result in construction of any new facilities. Therefore the proposed Project would not have the ability to physically divide an established community and no further analysis is warranted.

**Impact #1.3.11b – Would the Project cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?**

The proposed Project would allow for continued conveyance of existing water supply. It would not result in any changes to land use. Existing and planned land uses would not be affected by the proposed Project. Therefore, the Project would have no impact and no further evaluation is required in the EIR.

Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than- Significant Impact	No Impact
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**1.3.12 - MINERAL RESOURCES**

Would the Project:

- a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the State?
- b. Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?

***Discussion***

**Impact #1.3.12a – Would the Project result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the State?**

The proposed Project would not result in the loss of availability of a known mineral resource or the loss of a locally important mineral resource. Therefore, the Project would have no impact and no further evaluation is required in the EIR.

**Impact #1.3.12b – Would the Project result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?**

See Impact #1.3.12a, above.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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**1.3.13 - NOISE**

Would the Project result in:

- |    |   |                          |                          |                          |                                     |
|----|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the Project in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies?                                   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Generation of excessive groundborne vibration or groundborne noise levels?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | For a Project located within the vicinity an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project expose people residing or working in the Project area to excessive noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

**Discussion**

**Impact #1.3.13a – Would the Project result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the Project in excess of standards established in a local general plan or noise ordinance or applicable standards of other agencies?**

The proposed Project would continue conveyance of the CVC Contractors’ existing CVP water supply using existing facilities and would not result in construction of any new facilities. The proposed Project will not expose people to the generation of noise levels in excess of standards, excessive groundborne vibration or groundborne noise, a substantial temporary or permanent increase in ambient noise levels, or excessive airport-related noise. The proposed Project would not introduce new or worsen existing noise-generating activities to the Project Area. Therefore, the Project would have no impact and no further evaluation is required in the EIR.

**Impact #1.3.13b – Would the Project result in generation of excessive groundborne vibration or groundborne noise levels?**

See Impact #1.3.13a, above.



**Impact #1.3.13c – For a Project located within the vicinity an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the Project expose people residing or working in the Project area to excessive noise levels?**

See Impact #1.3.13a, above.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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**1.3.14 - POPULATION AND HOUSING**

Would the Project:

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

**Discussion**

**Impact #1.3.14a – Would the Project Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?**

Implementation of the proposed Project would not include any new construction or alterations to existing conveyance methods. The proposed Project would not involve any new development or addition of construction related job increases, including new housing, and would not result in population growth and/or the need for new housing. The Project also would not result in any additional water supplies, and thus would not indirectly lead to potential population growth. Therefore, the Project would have no impact and no further evaluation is required in the EIR.

**Impact #1.3.14b – Would the Project displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?**

See Impact #1.3.14a, above.

	<b>Potentially Significant Impact</b>	<b>Less than Significant with Mitigation Incorporated</b>	<b>Less than Significant Impact</b>	<b>No Impact</b>
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**1.3.15 - PUBLIC SERVICES**

Would the Project:

a. Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or to other performance objectives for any of the public services:

i.	Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii.	Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii.	Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv.	Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
v.	Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

***Discussion***

**Impact #1.3.15a(i) – Would the Project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or to other performance objectives for any of the public services - Fire Protection?**

The proposed Project would not result in new development and, therefore, would not place a substantial demand on any public services including public facilities and health and emergency response services. Therefore, the Project would have no impact and no further evaluation is required in the EIR.

**Impact #1.3.15a(ii) – Would the Project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or to other performance objectives for any of the public services – Police Protection?**

See Impact #1.3.15a(i), above.

**Impact #1.3.15a(iii) – Would the Project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or to other performance objectives for any of the public services – Schools?**

See Impact #1.3.15a(i), above.

**Impact #1.3.15a(iv) – Would the Project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or to other performance objectives for any of the public services – Parks?**

See Impact #1.3.15a(i), above.

**Impact #1.3.15a(v) – Would the Project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or to other performance objectives for any of the public services – Other Public Facilities?**

See Impact #1.3.15a(i), above.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
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**1.3.16 - RECREATION**

Would the Project:

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?                        | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

**Discussion**

**Impact #1.3.16a – Would the Project Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?**

The proposed Project would continue conveyance of the CVC Contractors’ existing CVP water supply using existing facilities and would not result in construction of any new facilities. Therefore, the proposed Project would not result in the increased use of any recreational facilities. Therefore, the Project would have no impact and no further evaluation is required in the EIR.

**Impact #1.3.16b – Would the Project include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?**

The proposed Project does not include recreational facilities and does not require construction or expansion of recreational facilities. Therefore, the Project would have no impact and no further evaluation is required in the EIR.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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**1.3.17 - TRANSPORTATION**

Would the Project:

a. Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Conflict or be inconsistent with CQA Guidelines Section 15064.3, subdivision (b)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion**

**Impact #1.3.17a – Would the Project conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?**

The proposed Project would continue conveyance of the CVC Contractors’ existing CVP water supply using existing facilities and would not result in construction of any new facilities. The proposed Project would not conflict with existing traffic, circulation, congestion management, or adopted public transportation plans. Nor does the proposed Project result in changes air or ground traffic levels, increase risks from hazards from design features or incompatible uses, or alter emergency access. Therefore, the Project would have no impact and no further evaluation is required in the EIR.

**Impact #1.3.17b – Would the Project conflict with or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?**

See Impact #1.3.17a, above.

**Impact #1.3.17c – Would the Project substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?**

See Impact #1.3.17a, above.

**Impact #1.3.17d – Would the Project result in inadequate emergency access?**

See Impact# 1.3.17a, above.

Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
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**1.3.18 - TRIBAL CULTURAL RESOURCES**

Would the Project:

a. Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

i. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k), or

ii. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

**Discussion**

**Impact #1.3.18a(i) – Would the Project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?**

These questions were addressed in the discussion presented in Section 1.3.5 - *Cultural Resources*.



**Impact #1.3.18a(ii) – Would the Project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is a resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?**

See discussion for Impact #1.3.5a.

Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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**1.3.19 - UTILITIES AND SERVICE SYSTEMS**

Would the Project:

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction of which could cause significant environmental effects? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. Have sufficient water supplies available to serve the Project and reasonably foreseeable future development during normal, dry, and multiple dry years?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. Result in a determination by the wastewater treatment provider that serves or may serve the Project that it has adequate capacity to serve the Project's projected demand in addition to the provider's existing commitments?                                       | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d. Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e. Comply with federal, State, and local management and reduction statutes and regulations related to solid waste?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

***Discussion***

**Impact #1.3.19a – Would the Project require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction of which could cause significant environmental effects?**

The proposed Project would continue conveyance of the CVC Contractors' existing CVP water supply using existing facilities and would not result in construction of any new facilities. The proposed Project would not substantially increase demand for water supplies or wastewater treatment services, exceed wastewater treatment requirements, require the construction of new water and wastewater treatment facilities, or result in a determination by the

wastewater treatment provider that it does not have adequate capacity to serve projected area demand. In addition, there would be no impacts to stormwater drainage facilities and landfills from the proposed Project. Therefore, the Project would have no impact and no further evaluation is required in the EIR.

**Impact #1.3.19b – Would the Project have sufficient water supplies available to serve the Project and reasonably foreseeable future development during normal, dry, and multiple dry years?**

See Impact #1.3.19a, above.

**Impact #1.3.19c – Would the Project result in a determination by the wastewater treatment provider that serves or may serve the Project that it has adequate capacity to serve the Project’s projected demand in addition to the provider’s existing commitments?**

See Impact #1.3.19a, above.

**Impact #1.3.19d – Would the Project generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?**

See Impact #1.3.19a, above.

**Impact #1.3.19e – Would the Project comply with federal, State, and local statutes and regulations related to solid waste?**

See Impact #1.3.19a, above.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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**1.3.20 - WILDFIRE**

If located in or near State responsibility areas or lands classified as very high fire hazard severity zones, would the Project:

- |  |                                     |                          |                          |                          |
|--|-------------------------------------|--------------------------|--------------------------|--------------------------|
| a. Substantially impair an adopted emergency response plan or emergency evacuation plan?   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b. Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose Project occupants to, pollutant concentration from a wildfire or the uncontrolled spread of a wildfire?  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c. Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| d. Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

**Discussion**

**Impact #1.3.20a – If located in or near State responsibility areas or lands classified as very high fire hazard severity zones, would the Project substantially impair an adopted emergency response plan or emergency evacuation plan?**

Impacts related to wildfire will be analyzed in the EIR.

**Impact #1.3.20b – If located in or near State responsibility areas or lands classified as very high fire hazard severity zones, would the Project, due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose Project occupants to, pollutant concentration from a wildfire or the uncontrolled spread of a wildfire?**

Impacts related to wildfire will be analyzed in the EIR.

**Impact #1.3.20c – If located in or near State responsibility areas or lands classified as very high fire hazard severity zones, would the Project require the installation or maintenance of**

**associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?**

Impacts related to wildfire will be analyzed in the EIR.

**Impact #1.3.20d – If located in or near State responsibility areas or lands classified as very high fire hazard severity zones, would the Project expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?**

Impacts related to wildfire will be analyzed in the EIR.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less than Significant Impact	No Impact
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**1.3.21 - MANDATORY FINDINGS OF SIGNIFICANCE**

a. Does the Project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Does the Project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a Project are significant when viewed in connection with the effects of past Projects, the effects of other current Projects, and the effects of probable future Projects.)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Does the Project have environmental effects that would cause substantial adverse effects on human beings, either directly or indirectly?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Discussion**

**Impact #1.3.21a – Does the Project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?**

An evaluation of impacts to the quality of the environment will be analyzed in the EIR.

**Impact #1.3.21b - Does the Project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a Project are significant when viewed in connection with the effects of past Projects, the effects of other current Projects, and the effects of probable future Projects.)?**

An evaluation of the proposed Project's cumulative impacts will be included in the EIR.

**Impact #1.3.21c - Does the Project have environmental effects that would cause substantial adverse effects on human beings, either directly or indirectly?**

An evaluation of adverse effects to human beings will be analyzed in the EIR.

**APPENDIX B**

***Appendix B-1 – Draft Proposed Draft Long-Term Conveyance Contract***



**PROPOSED FINAL FORM OF USBR WIIN ACT REPAYMENT CONTRACT  
FOR  
CROSS VALLEY CANAL CONTRACTORS**

Irrigation and M&I  
Contract No. 14-06-200-      -IR5-P

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION  
Central Valley Project, California

CONTRACT BETWEEN THE UNITED STATES  
AND  
INSERT CONTRACTOR NAME  
PROVIDING FOR PROJECT WATER SERVICE AND FACILITIES REPAYMENT

Table of Contents

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
	Preamble .....	1
	Explanatory Recitals .....	2
1.	Definitions .....	67
2.	Term of Contract – Right to Use of Water .....	12
3.	Water to be Made Available and Delivered for the Contractor .....	13
4.	Time for Delivery of Water .....	18
5.	Point of Diversion and Responsibility for Distribution of Water .....	1920
6.	Measurement of Water Within the Contractor’s Service Area .....	22
7.	Rates, Method of Payment for Water and Accelerated Repayment of Facilities .	24
8.	Non-Interest Bearing O&M Deficits .....	34
9.	Sales, Transfers, or Exchanges of Water .....	34
10.	Application of Payments and Adjustments.....	36
11.	Temporary Reductions – Return Flows .....	3637
12.	Constraints on the Availability of Water .....	3738
13.	Unavoidable Groundwater Percolation.....	3839
14.	Compliance with Federal Reclamation Laws .....	39
15.	Protection of Water and Air Quality .....	39
16.	Water Acquired by the Contractor Other Than From the United States.....	3940
17.	Opinions and Determinations .....	42
18.	Coordination and Cooperation.....	4243
19.	Charges for Delinquent Payments .....	44

Table of Contents – continued

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
20.	Equal Employment Opportunity .....	45
21.	General Obligation – Benefits Conditioned Upon Payment.....	46
22.	Compliance with Civil Rights Laws and Regulations .....	<del>46</del> 47
23.	Privacy Act Compliance .....	47
24.	Contractor to Pay Certain Miscellaneous Costs .....	48
25.	Water Conservation .....	<del>48</del> 49
26.	Existing or Acquired Water or Water Rights.....	50
27.	Operation and Maintenance by the Operating Non-Federal Entity(ies) .....	<del>50</del> 51
28.	Contingent on Appropriation or Allotment of Funds .....	52
29.	Books, Records, and Reports.....	52
30.	Assignment Limited – Successors and Assigns Obligated.....	53
31.	Severability .....	53
32.	Resolution of Disputes.....	54
33.	Officials Not to Benefit.....	<del>54</del> 55
34.	Changes in Contractor’s Organization and/or Service Area.....	<del>54</del> 55
35.	Federal Laws.....	55
36.	Reclamation Reform Act of 1982 .....	<del>55</del> 56
37.	Certification of Nonsegregated Facilities .....	56
38.	Notices .....	<del>56</del> 57
39.	Medium for Transmitting Payment.....	57
40.	Contract Drafting Considerations .....	57
41.	Confirmation of Contract.....	<del>57</del> 58
	Signature Page.....	58

- Exhibit A – Map of Contractor’s Service Area
- Exhibit B – Rates and Charges
- Exhibit C – Repayment Obligation



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EXPLANATORY RECITALS

[1<sup>st</sup>] WHEREAS, the United States has constructed and is operating the California Central Valley Project (Project), for diversion, storage, carriage, distribution and beneficial use, for flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and restoration, generation and distribution of electric energy, salinity control, navigation and other beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and the San Joaquin River and their tributaries; and

[2<sup>nd</sup>] WHEREAS, the United States constructed the Project facilities, which will be used in part for the furnishing of water to the Contractor pursuant to the terms of this Contract; and

[3<sup>rd</sup>] WHEREAS, as provided herein, Project Water may be made available for the Contractor in the Sacramento-San Joaquin Delta and/or from the Friant Division and delivered to the Contractor through appropriate federal, state and/or local facilities; and

[4<sup>th</sup>] WHEREAS, the Department of Water Resources of the State of California (DWR) is engaged in the operation of the State Water Project (SWP) pursuant to the laws of the State of California involving the development, transportation, and delivery of water supplies to public agencies throughout the State of California; and

[5<sup>th</sup>] WHEREAS, the Cross Valley Canal, connecting the California Aqueduct and the Friant-Kern Canal in Kern County, has been constructed by the Contractor and others at no cost to the United States; and

[6<sup>th</sup>] WHEREAS, the Contractor has the right to use the Cross Valley Canal for conveyance of the Project Water furnished hereunder; and

[7<sup>th</sup>] WHEREAS, the rights to Project Water were acquired by the United States

39 pursuant to California law for operation of the Project; and

40 [8<sup>th</sup>] WHEREAS, the [INSERT CONTRACTOR NAME] and the United States  
41 entered into Contract No. 14-06-200-█, as amended, which established terms for the delivery to  
42 the Contractor of Project Water via the Cross Valley Canal from February 4, 1976, through  
43 February 29, 1996; and

44 [9<sup>th</sup>] WHEREAS, the Contractor and the United States have pursuant to subsection  
45 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into  
46 interim renewal contract(s) identified as Contract No(s). 14-06-200-█ through IR18, the current  
47 of which is hereinafter referred to as the Existing Contract, which provided for the continued  
48 water service to the Contractor from March 1, 2020 through February 28, 2022; and

49 [10<sup>th</sup>] WHEREAS, on December 16, 2016, the 114<sup>th</sup> Congress of the United States of  
50 America enacted the WIIN Act; and

51 [11<sup>th</sup>] WHEREAS, Section 4011(a)(1) provides that “upon request of the contractor, the  
52 Secretary of the Interior shall convert any water service contract in effect on the date of  
53 enactment of this subtitle and between the United States and a water users’ association  
54 [Contractor] to allow for prepayment of the repayment contract pursuant to paragraph (2) under  
55 mutually agreeable terms and conditions.”; and

56 [12<sup>th</sup>] WHEREAS, Section 4011(a)(1) further provides that “the manner of conversion  
57 under this paragraph shall be as follows: (A) Water service contracts that were entered into  
58 under section (e) of the Act of August 4, 1939 (53 Stat. 1196), to be converted under this section  
59 shall be converted to repayment contracts under section 9(d) of that Act (53 Stat. 1195); and  
60 “(B) Water service contracts that were entered under subsection (c)(2) of section 9 of the Act of  
61 August 4, 1939 (53 Stat. 1194), to be converted under this section shall be converted to a

62 contract under subsection (c)(1) of section 9 of that Act (53 Stat. 1195).”; and

63 [13<sup>th</sup>] WHEREAS, Section 4011(a)(4)(C) further provides all contracts entered into  
64 pursuant to Section 4011(a)(1), (2), and (3) shall “not modify other water service, repayment,  
65 exchange and transfer contractual rights between the water users’ association [Contractor], and  
66 the Bureau of Reclamation, or any rights, obligations, or relationships of the water users’  
67 association [Contractor] and their landowners as provided under State law.”; and

68 [14<sup>th</sup>] WHEREAS, Section 4011(d)(3) and (4) of the WIIN Act provides that  
69 “implementation of the provisions of this subtitle shall not alter... (3) the priority of a water  
70 service or repayment contractor to receive water; or (4) except as expressly provided in this  
71 section, any obligations under the Federal Reclamation law, including the continuation of  
72 Restoration Fund charges pursuant to section 3407(d) (Pub. L. 102-575), of the water service and  
73 repayment contractors making prepayments pursuant to this section.”; and

74 [15<sup>th</sup>] WHEREAS, upon the request of the Contractor, the WIIN Act directs the  
75 Secretary to convert irrigation water service contracts and municipal and industrial (M&I) water  
76 service contracts into repayment contracts, amend existing repayment contracts, and allow  
77 contractors to prepay their construction cost obligations pursuant to applicable Federal  
78 Reclamation law; and

79 [16<sup>th</sup>] WHEREAS, the United States has determined that the Contractor has fulfilled all  
80 of its obligations under the Existing Contract; and

81 [17<sup>th</sup>] WHEREAS, the Contractor has demonstrated to the satisfaction of the  
82 Contracting Officer that the Contractor has utilized the Project Water supplies available to it for  
83 reasonable and beneficial use and/or has demonstrated projected future demand for water use  
84 such that the Contractor has the capability and expects to utilize fully for reasonable and

85 beneficial use the quantity of Project Water to be made available to it pursuant to this Contract;  
86 and

87 [18<sup>th</sup>] WHEREAS, water obtained from the Project has been relied upon by urban and  
88 agricultural areas within California for more than 50 years, and is considered by the Contractor  
89 as an essential portion of its water supply; and

90 [19<sup>th</sup>] WHEREAS, the economies of regions within the Project, including the  
91 Contractor's, depend upon the continued availability of water, including water service from the  
92 Project; and

93 [20<sup>th</sup>] WHEREAS, the Secretary intends through coordination, cooperation, and  
94 partnerships to pursue measures to improve water supply, water quality, and reliability of the  
95 Project for all Project purposes; and

96 [21<sup>st</sup>] WHEREAS, the mutual goals of the United States and the Contractor include: to  
97 provide for reliable Project Water supplies; to control costs of those supplies; to achieve  
98 repayment of the Project as required by law; to guard reasonably against Project Water  
99 shortages; to achieve a reasonable balance among competing demands for use of Project Water;  
100 and to comply with all applicable environmental statutes, all consistent with the legal obligations  
101 of the United States relative to the Project; and

102 [22<sup>nd</sup>] WHEREAS, the parties intend by this Contract to develop a more cooperative  
103 relationship in order to achieve their mutual goals; and

104 [23<sup>rd</sup>] WHEREAS, the Contractor has utilized or may utilize transfers, exchanges,  
105 contract assignments, rescheduling and conveyance of Project Water and non-Project water  
106 under this Contract as tools to minimize the impacts of a Condition of Shortage and to maximize  
107 the beneficial use of water (Contractors included); and

108 [24<sup>th</sup>] WHEREAS, the United States and the Contractor are willing to enter into a  
109 separate contract with DWR for conveyance of Project Water through the facilities of the SWP  
110 wherein the United States is willing to furnish the necessary power for pumping such water  
111 through Harvey O. Banks Pumping Plant and Dos Amigos Pumping Plant pursuant to the then-  
112 existing CVP Project use power policy and the terms and conditions specified in such separate  
113 contract; and

114 [25<sup>th</sup>] WHEREAS, the United States and the Contractor understand that DWR is willing  
115 to convey such water through State Facilities; and

116 [26<sup>th</sup>] WHEREAS, the Contracting Officer and the Contractor agree that this Contract  
117 complies with Section 4011 of the WIIN Act; and

118 [27<sup>th</sup>] WHEREAS, the Contracting Officer and the Contractor agree to amend and  
119 convert the Existing Contract pursuant to Section 4011 of the WIIN Act and other Federal  
120 Reclamation law on the terms and conditions set forth below.

121 NOW, THEREFORE, in consideration of the mutual and dependent covenants herein  
122 contained, it is hereby mutually agreed by the parties hereto as follows:

123 DEFINITIONS

124 1. When used herein unless otherwise distinctly expressed, or manifestly  
125 incompatible with the intent of the parties as expressed in this Contract, the term:

126 (a) “Additional Capital Obligation” shall mean construction costs or other  
127 capitalized costs incurred after the Effective Date or not reflected in the Existing Capital  
128 Obligation as defined herein and in accordance with Section 4011, subsection (a)(2)(B) and  
129 (a)(3)(B) of the Water Infrastructure Improvements for the Nation Act (Pub. L. 114-322, 130  
130 Stat. 1628) (“WIIN Act”);



131 (b) "Calendar Year" shall mean the period January 1 through December 31,  
132 both dates inclusive;

133 (c) "Charges" shall mean the payments required by Federal Reclamation law  
134 in addition to the Rates and Tiered Pricing Component specified in this Contract as determined  
135 annually by the Contracting Officer pursuant to this Contract;

136 (d) "Condition of Shortage" shall mean a condition respecting the Project  
137 during any Year such that the Contracting Officer is unable to deliver sufficient water to meet the  
138 Contract Total;

139 (e) "Contracting Officer" shall mean the Secretary of the Interior's duly  
140 authorized representative acting pursuant to this Contract or applicable Federal Reclamation law  
141 or regulation;

142 (f) "Contract Total" shall mean the maximum amount of water to which the  
143 Contractor is entitled under subdivision (a) of Article 3 of this Contract;

144 (g) "Contractor's Service Area" shall mean the area to which the Contractor is  
145 permitted to provide Project Water under this Contract as described in Exhibit "A" attached  
146 hereto, which may be modified from time to time in accordance with Article 34 of this Contract  
147 without amendment of this Contract;

148 (h) "Cross Valley Canal" shall mean the water conveyance and related works  
149 constructed by the Contractor and others to deliver water from the California Aqueduct, which  
150 canal currently is operated by Kern County Water Agency;

151 (i) "CVPIA" shall mean the Central Valley Project Improvement Act, Title  
152 XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

153 (j) "Eligible Lands" shall mean all lands to which Irrigation Water may be

154 delivered in accordance with Section 204 of the Reclamation Reform Act of October 12, 1982  
155 (96 Stat. 1263), as amended;

156           (k)     “Excess Lands” shall mean all lands in excess of the limitations contained  
157 in Section 204 of the Reclamation Reform Act of 1982, other than those lands exempt from  
158 acreage limitation under Federal Reclamation law;

159           (l)     “Existing Capital Obligation” shall mean the remaining amount of  
160 construction costs or other capitalized costs allocable to the Contractor as described in Section  
161 4011, subsections (a)(2)(A) and (a)(3)(A) of the WIIN Act, and as identified in the Central  
162 Valley Project Irrigation Water Rates and/or Municipal and Industrial Water Rates, respectively,  
163 dated **Month/Day/Year [specify rate book year for all Contractors.] [Contractor specific to**  
164 **address the intertie]**, as adjusted to reflect payments not reflected in such schedule. The  
165 Contracting Officer has computed the Existing Capital Obligation and such amount is set forth in  
166 Exhibit “C”, which is incorporated herein by reference;

167           (m)     “Full Cost Rate” shall mean an annual rate as determined by the  
168 Contracting Officer that shall amortize the expenditures for construction properly allocable to the  
169 Project irrigation or M&I functions, as appropriate, of facilities in service including all O&M  
170 deficits funded, less payments, over such periods as may be required under Federal Reclamation  
171 law, or applicable contract provisions. Interest will accrue on both the construction expenditures  
172 and funded O&M deficits from October 12, 1982, on costs outstanding at that date, or from the  
173 date incurred in the case of costs arising subsequent to October 12, 1982, and shall be calculated  
174 in accordance with subsections 202(3)(B) and (3)(C) of the Reclamation Reform Act of 1982.  
175 The Full Cost Rate includes actual operation, maintenance, and replacement costs consistent with  
176 Section 426.2 of the Rules and Regulations for the Reclamation Reform Act of 1982;

177 (n) "Ineligible Lands" shall mean all lands to which Irrigation Water may not  
178 be delivered in accordance with Section 204 of the Reclamation Reform Act of 1982;

179 (o) "Irrigation Full Cost Water Rate" shall mean the Full Cost Rate applicable  
180 to the delivery of Irrigation Water;

181 (p) "Irrigation Water" shall mean the use of Project Water to irrigate lands  
182 primarily for the production of commercial agricultural crops or livestock, and domestic and  
183 other uses that are incidental thereto;

184 (q) "Landholder" shall mean a party that directly or indirectly owns or leases  
185 nonexempt land, as provided in 43 CFR 426.2;

186 (r) "Municipal and Industrial (M&I) Water" shall mean the use of Project  
187 Water for municipal, industrial, and miscellaneous other purposes not falling under the  
188 definition of "Irrigation Water" or within another category of water use under an  
189 applicable Federal authority

190 or water delivered to land holdings operated in units of less than five acres unless the Contractor  
191 establishes to the satisfaction of the Contracting Officer that the use of water delivered to any  
192 such landholding is a use described in subdivision (p) of this Article;

193 (s) "M&I Full Cost Water Rate" shall mean the Full Cost Rate applicable to  
194 the delivery of M&I Water;

195 (t) "Operation and Maintenance" or "O&M" shall mean normal and  
196 reasonable care, control, operation, repair, replacement (other than capital replacement), and  
197 maintenance of Project facilities;

198 (u) "Operating Non-Federal Entity" shall mean either the San Luis & Delta  
199 Mendota Water Authority or the Friant Water Authority, their successors or assigns, non-Federal  
200 entities which have the obligation to operate and maintain all or a portion of the Project facilities  
201 pursuant to written agreements with the United States, and which may have funding obligations  
202 with respect thereto;

203                   (v)     “Operations Manual” shall mean the manual developed by DWR and  
204 Reclamation setting forth procedures, which shall be consistent with this Contract, for working  
205 level communications including scheduling and accounting for power and water services.;

206                   (w)     “Project” shall mean the Central Valley Project owned by the United  
207 States and managed by the Department of the Interior, Bureau of Reclamation;

208                   (x)     “Project Contractors” shall mean all parties who have contracts for water  
209 service for Project Water from the Project with the United States pursuant to Federal  
210 Reclamation law;

211                   (y)     “Project Water” shall mean all water that is developed, diverted, stored, or  
212 delivered by the Secretary in accordance with the statutes authorizing the Project and in  
213 accordance with the terms and conditions of water rights acquired pursuant to California law;

214                   (z)     “Rates” shall mean the payments determined annually by the Contracting  
215 Officer in accordance with the then-current applicable water ratesetting policies for the Project,  
216 as described in subdivision (a) of Article 7 of this Contract;

217                   (aa)    “Recent Historic Average” shall mean the most recent five-year average of  
218 the final forecast of Water Made Available to the Contractor pursuant to this Contract or its  
219 preceding contract(s);

220                   (bb)    “Repayment Obligation” for Water Delivered as Irrigation Water shall  
221 mean the Existing Capital Obligation discounted by ½ of the Treasury rate, which shall be the  
222 amount due and payable to the United States, pursuant to Section 4011(a)(2)(A) of the WIIN  
223 Act; and for Water Delivered as M&I Water shall mean the amount due and payable to the  
224 United States, pursuant to Section 4011(a)(3)(A) of the WIIN Act;

225                   (cc)    “Secretary” shall mean the Secretary of the Interior, a duly appointed

226 successor, or an authorized representative acting pursuant to any authority of the Secretary and  
227 through any agency of the Department of the Interior;

228 (dd) "State Facilities" shall mean that portion of the SWP (including DWR's  
229 portion of the San Luis Unit joint-use facilities), necessary to convey Project Water from the  
230 Sacramento-San Joaquin Delta (Delta) to points of delivery as scheduled pursuant to Article 5 of  
231 this Contract;

232 (ee) "State Water Project" or "SWP" shall mean the California State Water  
233 Project;

234 (ff) "Tiered Pricing Component" shall be the incremental amount to be paid  
235 for each acre-foot of Water Delivered as described in Article 7 of this Contract and as provided  
236 for in Exhibit "B";

237 (gg) "Water Delivered" or "Delivered Water" shall mean Project  
238 Water diverted for use by the Contractor at the point(s) of delivery approved by the Contracting  
239 Officer;

240 (hh) "Water Made Available" shall mean the estimated amount of Project  
241 Water that can be delivered to the Contractor for the upcoming Year as declared by the  
242 Contracting Officer, pursuant to subdivision (a) of Article 4 of this Contract;

243 (ii) "Water Scheduled" shall mean Project Water made available to the  
244 Contractor for which times and quantities for delivery have been established by the Contractor  
245 and Contracting Officer, pursuant to subdivision (b) of Article 4 of this Contract; and

246 (jj) "Year" shall mean the period from and including March 1 of each  
247 Calendar Year through the last day of February of the following Calendar Year.

248 TERM OF CONTRACT – RIGHT TO USE OF WATER

249 2. (a) This Contract shall be effective [Effective Date], hereinafter known as the  
250 “Effective Date”, and shall continue so long as the Contractor pays applicable Rates and Charges  
251 under this Contract, consistent with Section 9(d) or 9(c)(1) of the Act of August 4, 1939 (53 Stat.  
252 1195) as applicable, and applicable law;

253 (1) Provided, That the Contracting Officer shall not seek to terminate  
254 this Contract for failure to fully or timely pay applicable Rates and Charges by the Contactor,  
255 unless the Contracting Officer has first provided at least sixty (60) calendar days written notice  
256 to the Contractor of such failure to pay and the Contractor has failed to cure such failure to pay,  
257 or to diligently commence and maintain full curative payments satisfactory to the Contracting  
258 Officer within the sixty (60) calendar days’ notice period;

259 (2) Provided, further, That the Contracting Officer shall not seek to  
260 suspend making water available or declaring Water Made Available pursuant to this Contract for  
261 non-compliance by the Contractor with the terms of this Contract or Federal law, unless the  
262 Contracting Officer has first provided at least thirty (30) calendar days written notice to the  
263 Contractor and the Contractor has failed to cure such non-compliance, or to diligently commence  
264 curative actions satisfactory to the Contracting Officer for a non-compliance that cannot be fully  
265 cured within the thirty (30) calendar days’ notice period. If the Contracting Officer has  
266 suspended making water available pursuant to this paragraph, upon cure of such non-compliance  
267 satisfactory to the to the Contracting Officer, the Contracting Officer shall resume making water  
268 available and declaring Water Made Available pursuant to this Contract;

269 (3) Provided, further, That this Contract may be terminated at any

270 time by mutual consent of the parties hereto.

271           (b) Upon complete payment of the Repayment Obligation by the Contractor,  
272 and notwithstanding any Additional Capital Obligation that may later be established, the acreage  
273 limitations, reporting, and Full Cost pricing provisions of the Reclamation Reform Act of 1982,  
274 and subdivisions (j) Eligible Lands, (k) Excess Lands, and (n) Ineligible Lands, of Article 1 of  
275 this Contract shall no longer be applicable.

276           (c) Notwithstanding any provision of this Contract, the Contractor reserves  
277 and shall have all rights and benefits under the Act of July 2, 1956 (70 Stat. 483), to the extent  
278 allowed by law.

279           (d) Notwithstanding any provision of this Contract, the Contractor reserves  
280 and shall have all rights and benefits under the Act of June 21, 1963 (77 Stat. 68), to the extent  
281 allowed by law.

282           WATER TO BE MADE AVAILABLE AND DELIVERED FOR THE CONTRACTOR

283           3.     (a) During each Year, consistent with all applicable State water rights,  
284 permits, and licenses, Federal law, and subject to the provisions set forth in Articles 11 and 12 of  
285 this Contract, the Contracting Officer shall make available in the Delta for delivery for the  
286 Contractor        acre-feet of Project Water for irrigation and M&I purposes. The quantity of  
287 Water Delivered for the Contractor in accordance with this subdivision shall be scheduled,  
288 conveyed, and paid for pursuant to the provisions of Articles 4 and 7 of this Contract.

289           (b) Because the capacity of the Project to deliver Project Water has been  
290 constrained in recent years and may be constrained in the future due to many factors including  
291 hydrologic conditions and implementation of Federal and State laws, the likelihood of the  
292 Contractor actually receiving the full amount of Project Water set out in subdivision (a) of this

293 Article in any given Year is uncertain. The Contracting Officer's modeling referenced in the  
294 programmatic environmental impact statement prepared pursuant to Section 3404(c) of  
295 the CVPIA projected that of the Contract Total set forth in this Contract will not be available for  
296 the Contractor in many years. During the most recent five years prior to execution of the  
297 Existing Contract, the Recent Historic Average of Water Made Available for the Contractor was  
298      acre-feet. Nothing in this subdivision (b) of this Article shall affect the rights and  
299 obligations of the parties under any provision of this Contract.

300 (c) The Contractor shall utilize the Project Water in accordance with all  
301 applicable legal requirements.

302 (d) The Contractor shall make reasonable and beneficial use of all water  
303 furnished pursuant to this Contract. Groundwater recharge programs (direct, indirect or in lieu),  
304 groundwater banking programs, surface water storage programs, and other similar programs  
305 utilizing Project Water or other water furnished pursuant to this Contract conducted within the  
306 Contractor's Service Area which are consistent with applicable State law and result in use  
307 consistent with Federal Reclamation law will be allowed; *Provided, That* any direct recharge  
308 program(s) is (are) described in the Contractor's water conservation plan submitted pursuant to  
309 Article 25 of this Contract; *Provided, further, That* such water conservation plan demonstrates  
310 sufficient lawful uses exist in the Contractor's Service Area so that using a long-term average,  
311 the quantity of Delivered Water is demonstrated to be reasonable for such uses and in  
312 compliance with Federal Reclamation law. Groundwater recharge programs, groundwater  
313 banking programs, surface water storage programs, and other similar programs utilizing Project  
314 Water or other water furnished pursuant to this Contract conducted outside the Contractor's  
315 Service Area may be permitted upon written approval of the Contracting Officer, which approval



316 will be based upon environmental documentation, Project Water rights, and Project operational  
317 concerns. The Contracting Officer will address such concerns in regulations, policies, or  
318 guidelines.

319           (e) The Contractor shall comply with requirements applicable to the  
320 Contractor in biological opinion(s) prepared as a result of a consultation regarding the execution  
321 of any water service contract between the Contracting Officer and the Contractor in effect  
322 immediately prior to the Effective Date undertaken pursuant to Section 7 of the Endangered  
323 Species Act of 1973 (ESA), as amended, that are within the Contractor's legal authority to  
324 implement. The Existing Contract, which evidences in excess of 44 years of diversions for  
325 irrigation and/or M&I purposes of the quantities of Project Water provided in subdivision (a) of  
326 Article 3 of this Contract, will be considered in developing an appropriate baseline for any  
327 required biological assessment(s) prepared pursuant to the ESA, and any other needed  
328 environmental review. Nothing herein shall be construed to prevent the Contractor from  
329 challenging or seeking judicial relief in a court of competent jurisdiction with respect to any  
330 biological opinion or other environmental documentation referred to in this Article.

331           (f) Following the declaration of Water Made Available under Article 4 of this  
332 Contract, the Contracting Officer will make a determination whether Project Water, or other  
333 water available to the Project, can be made available for the Contractor in addition to the  
334 Contract Total under this Article 3 during the Year without adversely impacting other Project  
335 Contractors. At the request of the Contractor, the Contracting Officer will consult with the  
336 Contractor prior to making such a determination. If the Contracting Officer determines that  
337 Project Water, or other water available to the Project, can be made available for the Contractor,  
338 the Contracting Officer will announce the availability of such water and shall so notify the

339 Contractor as soon as practical. The Contracting Officer will thereafter meet with the Contractor  
340 and other Project Contractors capable of taking such water to determine the most equitable and  
341 efficient allocation of such water. If the Contractor requests the delivery of any quantity of such  
342 water, the Contracting Officer shall make such water available for the Contractor in accordance  
343 with applicable statutes, regulations, guidelines, and policies. If the Contracting Officer  
344 determines that there is an unusually large water supply not otherwise storable for Project  
345 purposes or infrequent and otherwise unmanaged flood flows of short duration from the Friant  
346 Division, then Friant Division Project Water may be made available for the Contractor as Section  
347 215 Water under Section 215 of the Reclamation Reform Act of 1982 if the Contractor enters  
348 into a temporary contract, not to exceed one (1) year, with the United States for the delivery of  
349 such water or, as otherwise provided for in Federal Reclamation law and associated regulations:  
350 *Provided, That* such water shall be first made available to the Friant Division long-term water  
351 service and repayment contractors.

352 (g) The Contractor may request permission to reschedule for use during the  
353 subsequent Year some or all of the Water Made Available for the Contractor during the current  
354 Year referred to as “rescheduled water”. The Contractor may request permission to use during  
355 the current Year a quantity of Project Water which may be made available by the United States  
356 for the Contractor during the subsequent Year referred to as “preuse.” The Contracting Officer’s  
357 written approval may permit such uses in accordance with applicable statutes, regulations,  
358 guidelines, and policies.

359 (h) The Contractor’s right pursuant to Federal Reclamation law and applicable  
360 State law to the reasonable and beneficial use of Water Delivered pursuant to this Contract shall  
361 not be disturbed, and this Contract shall continue so long as the Contractor pays applicable Rates

362 and Charges under this Contract consistent with Section 9(d) or 9(c)(1) of the Act of August 4,  
363 1939 (53 Stat. 1195) as applicable, and applicable law. Nothing in the preceding sentence shall  
364 affect the Contracting Officer's ability to impose shortages under Article 11 or subdivision (b) of  
365 Article 12 of this Contract.

366 (i) Project Water furnished for the Contractor pursuant to this Contract may  
367 be delivered for purposes other than those described in subdivisions (p) and (r) of Article 1 of  
368 this Contract upon written approval by the Contracting Officer in accordance with the terms and  
369 conditions of such approval.

370 (j) The Contracting Officer shall make reasonable efforts to protect the water  
371 rights necessary for the Project and to provide the water available under this Contract. The  
372 Contracting Officer shall not object to participation by the Contractor, in the capacity and to the  
373 extent permitted by law, in administrative proceedings related to the Project Water rights;  
374 *Provided, That* the Contracting Officer retains the right to object to the substance of the  
375 Contractor's position in such a proceeding. *Provided further; That* in such proceedings the  
376 Contracting Officer shall recognize the Contractor has a legal right under the terms of this  
377 Contract to use Project Water.

378 (k) Conveyance and/or storage of Project Water for the Contractors may be  
379 provided subject to terms and conditions of a separate conveyance contract among a Contractor,  
380 the United States, and DWR.

381 (l) If in any Year after the Contracting Officer has approved a schedule or  
382 any revision thereof submitted in accordance within subdivision (a) and (b) of Article 4 of this  
383 Contract, and if the Contracting Officer is unable to make water available in the quantities and at  
384 the times requested in the schedule and the Contractor does not elect to receive and does not

385 receive such water at other times during such Year, then the Contractor shall be entitled to  
386 adjustment(s) for overpayment as provided in subdivision (c) of Article 7 and Article 10 of this  
387 Contract.

388 TIME FOR DELIVERY OF WATER

389 4. (a) On or about February 20 of each Calendar Year, the Contracting Officer  
390 shall announce the Contracting Officer's expected declaration of the Water Made Available.  
391 Such declaration will be expressed in terms of both Water Made Available and the Recent  
392 Historic Average and will be updated monthly, and more frequently if necessary, based on the  
393 then-current operational and hydrologic conditions and a new declaration with changes, if any, to  
394 the Water Made Available will be made. The Contracting Officer shall provide forecasts of  
395 Project operations and the basis of the estimate, with relevant supporting information, upon the  
396 written request of the Contractor. Concurrently with the declaration of the Water Made  
397 Available, the Contracting Officer shall provide the Contractor with the updated Recent Historic  
398 Average. The declaration of Project operations will be expressed in terms of both Water Made  
399 Available and the Recent Historic Average.

400 (b) On or before each March 1 and at such other times as necessary, the  
401 Contractor shall submit to the Contracting Officer and to DWR a written schedule, satisfactory to  
402 the Contracting Officer. The written schedule shall show the monthly quantities of Project  
403 Water to be delivered by the United States for the Contractor pursuant to this Contract for the  
404 Year commencing on such March 1. The Contracting Officer shall use all reasonable means to  
405 deliver Project Water according to the approved schedule for the Year commencing on such  
406 March 1.

407 (c) The Contractor shall not schedule Project Water in excess of the quantity

408 of Project Water the Contractor intends to put to reasonable and beneficial use within the  
409 Contractor's Service Area, pursuant to Article 3 or to sell, transfer or exchange pursuant to  
410 Article 5 and Article 9 of this Contract during any Year.

411 (d) Subject to the conditions set forth in subdivision (a) of Article 3 of this  
412 Contract, the United States shall deliver Project Water for the Contractor in accordance with the  
413 initial schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any  
414 written revision(s) thereto satisfactory to the Contracting Officer, submitted within a reasonable  
415 time prior to the date(s) on which the requested change(s) is/are to be implemented.

416 (e) Scheduling and delivery of Project Water for the Contractor shall be in  
417 accordance with guidelines set forth in the Operations Manual as it may be amended from time  
418 to time. The total amount of Project Water made available to DWR for the Contractor by the  
419 Contracting Officer shall include water by the Contracting Officer to compensate DWR for water  
420 conveyance losses incurred in conveyance of Project Water for the Contractor.

421 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

422 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this  
423 Contract shall be delivered for the Contractor at a point or points of delivery either on Project  
424 facilities or another location or locations mutually agreed to in writing by the Contracting Officer  
425 and the Contractor. The parties acknowledge that Project Water to be furnished for the  
426 Contractor pursuant to this Contract shall be delivered to the Contractor by direct delivery via the  
427 Cross Valley Canal and/or by exchange arrangements involving Arvin-Edison Water Storage  
428 District or others. The parties further acknowledge that such exchange arrangements are not  
429 transfers subject to Section 3405(a) of CVPIA. Such exchange arrangements, other than the  
430 previously approved exchange arrangements with Arvin-Edison Water Storage District approved

431 by Assistant Regional Director, J. Robert Hammond, on December 4, 1974, [(Kern-Tulare Water  
432 District contracts only) and Kern-Tulare Water District approved by Acting Regional Director  
433 Neil Schild, on September 9, 1984,] shall be submitted to the Contracting Officer for approval  
434 prior to the implementation of the proposed exchange.

435 (b) Omitted.

436 (1) To the extent that Friant Division Project Water exceeds Friant  
437 Division Contract demand and other Project purposes, as determined by the Contracting Officer  
438 and after consultation with the Contractor, if the Contractor so requests, the Contracting Officer,  
439 subject to subdivision (d) of Article 3 of this Contract, shall make Project Water provided for in  
440 subdivision (a) of Article 3 of this Contract available from such Friant Division supplies.

441 (2) As determined solely by the Contracting Officer, and after  
442 consultation with the Contractor, Project Water may be provided to the Contractor, at the  
443 Contractor's request and subject to the terms and conditions of this Contract, through Federal  
444 Delta diversion and conveyance facilities and/or re-regulated in the Federal share of storage at  
445 San Luis Reservoir for later delivery to the Contractor.

446 (c) The Contractor shall deliver Irrigation Water in accordance with any  
447 applicable land classification provisions of Federal Reclamation law and the associated  
448 regulations. The Contractor shall not deliver Project Water to land outside the Contractor's  
449 Service Area unless approved in advance by the Contracting Officer.

450 (d) All Water Delivered to the Contractor pursuant to this Contract shall be  
451 measured and recorded with equipment furnished, installed, operated, and maintained by the  
452 Contracting Officer either directly or indirectly through its written agreements(s) with the  
453 Operating Non-Federal Entity/Entities, unless undertaken by the Contractor with the

454 consent of the Contracting Officer at the point or points of delivery established pursuant to  
455 subdivision (a) of this Article. Upon the request of either party to this Contract, the Contracting  
456 Officer shall investigate, or cause to be investigated by the appropriate Operating Non-Federal  
457 Entity/Entities, the accuracy of such measurements and shall take any necessary steps to adjust  
458 any errors appearing therein. For any period of time when accurate measurements have not been  
459 made, the Contracting Officer shall consult with the Contractor and the appropriate Operating  
460 Non-Federal Entity/Entities, if any, prior to making a final determination of the quantity  
461 delivered for that period of time.

462           (e) Neither the Contracting Officer nor any Operating Non-Federal  
463 Entity/Entities shall be responsible for the control, carriage, handling, use, disposal, or  
464 distribution of Water Delivered to the Contractor pursuant to this Contract beyond the point or  
465 points of delivery established pursuant to subdivision (a) of this Article. The Contractor shall  
466 indemnify the United States, its officers, employees, agents, and assigns on account of damage or  
467 claim of damage of any nature whatsoever for which there is legal responsibility, including  
468 property damage, personal injury, or death arising out of or connected with the control, carriage,  
469 handling, use, disposal, or distribution of such Water Delivered beyond such point or points of  
470 delivery, except for any damage or claim arising out of: (i) acts or omissions of the Contracting  
471 Officer or any of its officers, employees, agents, or assigns, including the Operating Non-Federal  
472 Entity/Entities, with the intent of creating the situation resulting in any damage or claim; (ii)  
473 willful misconduct of the Contracting Officer or any of its officers, employees, agents, or  
474 assigns, including the Operating Non-Federal Entity/Entities; (iii) negligence of the Contracting  
475 Officer or any of its officers, employees, agents, or assigns including the Operating Non-Federal  
476 Entity/Entities; or (iv) damage or claims resulting from a malfunction of facilities owned and/or

477 operated by the United States or the Operating Non-Federal Entity/Entities; *Provided, That* the  
478 Contractor is not the Operating Non-Federal Entity that owned or operated the malfunctioning  
479 facility(ies) from which the damage claim arose.

480 MEASUREMENT OF WATER WITHIN THE CONTRACTOR'S SERVICE AREA

481 6. (a) The Contractor has established a measuring program satisfactory to the  
482 Contracting Officer. The Contractor shall ensure that all surface water delivered for irrigation  
483 purposes within the Contractor's Service Area is measured at each agricultural turnout and such  
484 water delivered for M&I purposes is measured at each M&I service connection. The water  
485 measuring devices or water measuring methods of comparable effectiveness must be acceptable  
486 to the Contracting Officer. The Contractor shall be responsible for installing, operating, and  
487 maintaining and repairing all such measuring devices and implementing all such water  
488 measuring methods at no cost to the United States. The Contractor shall use the information  
489 obtained from such water measuring devices or water measuring methods to ensure its proper  
490 management of the water, to bill water users for water delivered by the Contractor; and, if  
491 applicable, to record water delivered for M&I purposes by customer class as defined in the  
492 Contractor's water conservation plan provided for in Article 25 of this Contract. Nothing herein  
493 contained, however, shall preclude the Contractor from establishing and collecting any charges,  
494 assessments, or other revenues authorized by California law. The Contractor shall include a  
495 summary of all its annual surface water deliveries in the annual report described in subdivision  
496 (c) of Article 25 of this Contract.

497 (b) To the extent the information has not otherwise been provided, upon  
498 execution of this Contract, the Contractor shall provide to the Contracting Officer a written  
499 report describing the measurement devices or water measuring methods being used or to be used



500 to implement subdivision (a) of this Article and identifying the agricultural turnouts and the M&I  
501 service connections or alternative measurement programs approved by the Contracting Officer,  
502 at which such measurement devices or water measuring methods are being used, and, if  
503 applicable, identifying the locations at which such devices and/or methods are not yet being used  
504 including a time schedule for implementation at such locations. The Contracting Officer shall  
505 advise the Contractor in writing within sixty (60) days as to the adequacy of, and necessary  
506 modifications, if any, of the measuring devices or water measuring methods identified in the  
507 Contractor's report and if the Contracting Officer does not respond in such time, they shall be  
508 deemed adequate. If the Contracting Officer notifies the Contractor that the measuring devices  
509 or methods are inadequate, the parties shall within sixty (60) days following the Contracting  
510 Officer's response, negotiate in good faith the earliest practicable date by which the Contractor  
511 shall modify said measuring devices and/or measuring methods as required by the Contracting  
512 Officer to ensure compliance with subdivision (a) of this Article.

513 (c) All new surface water delivery systems installed within the Contractor's  
514 Service Area after the Effective Date shall also comply with the measurement provisions  
515 described in subdivision (a) of this Article.

516 (d) The Contractor shall inform the Contracting Officer and the State of  
517 California in writing by April 30 of each Year of the monthly volume of surface water delivered  
518 within the Contractor's Service Area during the previous Year.

519 (e) The Contractor shall inform the Contracting Officer and the Operating  
520 Non-Federal Entity/Entities on or before the 20th calendar day of each month of the quantity of  
521 Irrigation Water and M&I Water taken during the preceding month.

522

523

524

525

RATES, METHOD OF PAYMENT FOR WATER AND ACCELERATED REPAYMENT OF FACILITIES

526

7. (a) Notwithstanding the Contractor's full prepayment of the

527

Repayment Obligation pursuant to Section 4011, subsection (a)(2)(A) and subsection

528

(a)(3)(A) of the WIIN Act, as set forth in Exhibit "C", and any payments required

529

pursuant to Section 4011, subsection (b) of the WIIN Act, to reflect the adjustment for

530

the final cost allocation as described in this Article, subsection (b), the Contractor's

531

Project construction and other obligations shall be determined in accordance with: (i)

532

the Secretary's ratesetting policy for Irrigation Water adopted in 1988 and the Secretary's

533

then-existing ratesetting policy for M&I Water, consistent with the WIIN Act; and such

534

ratesetting policies shall be amended, modified, or superseded only through a public

535

notice and comment procedure; (ii) applicable Federal Reclamation law and associated

536

rules and regulations, or policies, and (iii) other applicable provisions of this Contract.

537

Payments shall be made by cash transaction, electronic funds transfers, or any other

538

mechanism as may be agreed to in writing by the Contractor and the Contracting Officer.

539

The Rates, Charges, and Tiered Pricing Component applicable to the Contractor upon

540

execution of this Contract are set forth in Exhibit "B", as may be revised annually.

541

(1) The Contractor shall pay the United States as provided for in this

542

Article of this Contract for all Delivered Water at Rates, Charges, and Tiered Pricing

543

Component in accordance with policies for Irrigation Water and M&I Water. The Contractor's

544

Rates shall be established to recover its estimated reimbursable costs included in the operation

545

and maintenance component of the Rate and amounts established to recover deficits and other

546 charges, if any, including construction costs as identified in the following subdivisions.

547                   (2)     In accordance with the WIIN Act, the Contractor's allocable share  
548 of Project construction costs will be repaid pursuant to the provisions of this Contract.

549                   (A)     The amount due and payable to the United States, pursuant  
550 to the WIIN Act, shall be the Repayment Obligation. The Repayment Obligation has been  
551 computed by the Contracting Officer in a manner consistent with the WIIN Act and is set forth  
552 as a lump sum payment (M&I and Irrigation) and as four (4) approximately equal annual  
553 installments (Irrigation Only) to be repaid no later than three (3) years after the Effective Date as  
554 set forth in Exhibit "C". **There could be one or two exhibits in most cases due to more than**  
555 **one service area [For Irrigation contractors and M&I contractors]** The Repayment  
556 Obligation is due in lump sum by **[Month Day, Year]** as provided by the WIIN Act. The  
557 Contractor must provide appropriate notice to the Contracting Officer in writing no later than  
558 thirty (30) days prior to **[Month Day, Year] [Division Level: consider the effective date of**  
559 **the contract being converted]** if electing to repay the amount due using the lump sum  
560 alternative. If such notice is not provided by such date, the Contractor shall be deemed to have  
561 elected the installment payment alternative, in which case, the first such payment shall be made  
562 no later than **[Month Day, Year] [Division Level: consider the effective date of the contract**  
563 **being converted]**. The second payment shall be made no later than the first anniversary of the  
564 first payment date. The third payment shall be made no later than the second anniversary of the  
565 first payment date. The final payment shall be made no later than **[Month Day, Year] [no later**  
566 **than the third anniversary of the effective date of the contract]**. If the installment payment  
567 option is elected by the Contractor, the Contractor may pre-pay the remaining portion of the  
568 Repayment Obligation by giving the Contracting Officer sixty (60) days written notice, in which

569 case, the Contracting Officer shall re-compute the remaining amount due to reflect the pre-  
570 payment using the same methodology as was used to compute the initial annual installment  
571 payment amount, which is illustrated in Exhibit “C”. Notwithstanding any Additional Capital  
572 Obligation that may later be established, receipt of the Contractor’s payment of the Repayment  
573 Obligation to the United States shall fully and permanently satisfy the Existing Capital  
574 Obligation.

575 (B) Additional Capital Obligations that are not reflected in, the  
576 schedules referenced in Exhibit “C” and properly assignable to the Contractor, shall be repaid as  
577 prescribed by the WIIN Act without interest except as required by law. Consistent with Federal  
578 Reclamation law, interest shall continue to accrue on the M&I portion of the Additional Capital  
579 Obligation assigned to the Contractor until such costs are paid. Increases or decreases in the  
580 Additional Capital Obligation assigned to the Contractor caused solely by annual adjustment of  
581 the Additional Capital Obligation assigned to each Project contractor by the Secretary shall not  
582 be considered in determining the amounts to be paid pursuant to this subdivision (a)(2)(B),  
583 however, will be considered under subdivision (b) of this Article. A separate agreement shall be  
584 established by the Contractor and the Contracting Officer to accomplish repayment of the  
585 Additional Capital Obligation assigned to the Contractor within the timeframe prescribed by the  
586 WIIN Act, subject to the following:

587 (1) If the collective Additional Capital Obligation  
588 properly assignable to the contractors exercising conversion under Section 4011 of the WIIN Act  
589 is less than five million dollars (\$5,000,000), then the portion of such costs properly assignable  
590 to the Contractor shall be repaid not more than five (5)-years after the Contracting Officer  
591 notifies the Contractor of the Additional Capital Obligation; *Provided, That* the reference to the

592 amount of five million dollars (\$5,000,000) shall not be a precedent in any other context.

593 (2) If the collective Additional Capital Obligation  
594 properly assignable to the contractors exercising conversion under Section 4011 of the WIIN Act  
595 is equal to or greater than five million dollars (\$5,000,000), then the portion of such costs  
596 properly assignable to the Contractor shall be repaid as provided by applicable Federal  
597 Reclamation law and Project ratesetting policy; *Provided, That* the reference to the amount of  
598 five million dollars (\$5,000,000) shall not be a precedent in any other context.

599 (b) In the event that the final cost allocation referenced in Section 4011(b) of  
600 the WIIN Act determines that the costs properly assignable to the Contractor are greater than  
601 what has been paid by the Contractor, the Contractor shall be obligated to pay the remaining  
602 allocated costs. The term of such additional repayment contract shall be not less than one (1)  
603 year and not more than ten (10) years, however, mutually agreeable provisions regarding the rate  
604 of repayment of such amount may be developed by the Contractor and Contracting Officer. In  
605 the event that the final cost allocation indicates that the costs properly assignable to the  
606 Contractor are less than what the Contractor has paid, the Contracting Officer shall credit such  
607 overpayment as an offset against any outstanding or future obligations of the Contractor, with the  
608 exception of Restoration Fund charges pursuant to Section 3407(d) of Pub. L. 102-575.

609 (c) The Contracting Officer shall notify the Contractor of the Rates, Charges,  
610 and Tiered Pricing Component as follows:

611 (1) Prior to July 1 of each Calendar Year, the Contracting Officer shall  
612 provide the Contractor an estimate of the Charges for Project Water that will be applied to the  
613 period October 1, of the current Calendar Year, through September 30, of the following Calendar  
614 Year, and the basis for such estimate. The Contractor shall be allowed not less than two months

615 to review and comment on such estimates. On or before September 15 of each Calendar Year,  
616 the Contracting Officer shall notify the Contractor in writing of the Charges to be in effect during  
617 the period October 1 of the current Calendar Year, through September 30, of the following  
618 Calendar Year, and such notification shall revise Exhibit "B".

619                   (2) Prior to October 1 of each Calendar Year, the Contracting Officer  
620 shall make available to the Contractor an estimate of the Rates and Tiered Pricing Component  
621 for Project Water for the following Year and the computations and cost allocations upon which  
622 those Rates are based. The Contractor shall be allowed not less than two months to review and  
623 comment on such computations and cost allocations. By December 31 of each Calendar Year,  
624 the Contracting Officer shall provide the Contractor with the final Rates and Tiered Pricing  
625 Component to be in effect for the upcoming Year, and such notification shall revise Exhibit "B".

626                   (d) At the time the Contractor submits the Contractor's initial schedule for the  
627 delivery of Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract,  
628 the Contractor shall make an advance payment to the United States equal to the total amount  
629 payable pursuant to the applicable Rate(s) set under subdivision (a) of this Article, for the Project  
630 Water scheduled to be delivered pursuant to this Contract during the first two calendar months of  
631 the Year. Before the end of the first month and before the end of each calendar month thereafter,  
632 the Contractor shall make an advance payment to the United States, at the Rate(s) set under  
633 subdivision (a) of this Article, for the Water Scheduled to be delivered pursuant to this Contract  
634 during the second month immediately following. Adjustments between advance payments for  
635 Water Scheduled and payments at Rates due for Water Delivered shall be made before the end of  
636 the following month; *Provided, That* any revised schedule submitted by the Contractor pursuant  
637 to Article 4 of this Contract which increases the amount of Water Delivered pursuant to this

638 Contract during any month shall be accompanied with appropriate advance payment, at the Rates  
639 then in effect, to assure that Project Water is not delivered for the Contractor in advance of such  
640 payment. In any month in which the quantity of Water Delivered for the Contractor pursuant to  
641 this Contract equals the quantity of Water Scheduled and paid for by the Contractor, no  
642 additional Project Water shall be delivered for the Contractor unless and until an advance  
643 payment at the Rates then in effect for such additional Project Water is made. Final adjustment  
644 between the advance payments for the Water Scheduled and payments for the quantities of Water  
645 Delivered during each Year pursuant to this Contract shall be made as soon as practicable but no  
646 later than April 30th of the following Year, or sixty (60) days after the delivery of Project Water  
647 carried over under subdivision (g) of Article 3 of this Contract if such water is not delivered by  
648 the last day of February.

649           (e) The Contractor shall also make a payment in addition to the Rate(s) in  
650 subdivision (d) of this Article to the United States for Water Delivered, at the Charges and the  
651 appropriate Tiered Pricing Component then in effect, before the end of the month following the  
652 month of delivery; *Provided, That* the Contractor may be granted an exception from the Tiered  
653 Pricing Component pursuant to subdivision (k)(2) of this Article. The payments shall be  
654 consistent with the quantities of Irrigation Water and M&I Water Delivered as shown in the  
655 water delivery report for the subject month prepared by the Operating Non-Federal  
656 Entity/Entities or, if there is no Operating Non-Federal Entity, by the Contracting Officer. The  
657 water delivery report shall be deemed a bill for the payment of Charges and the applicable Tiered  
658 Pricing Component for Water Delivered. Adjustment for overpayment or underpayment of  
659 Charges shall be made through the adjustment of payments due to the United States for Charges  
660 for the next month. Any amount to be paid for past due payment of Charges and the Tiered

661 Pricing Component shall be computed pursuant to Article 19 of this Contract.

662           (f)     The Contractor shall pay for any Water Delivered under subdivision (a),  
663 (f), or (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to  
664 applicable statutes, associated regulations, any applicable provisions of guidelines or ratesetting  
665 policies; Provided, That the Rate for Water Delivered under subdivision (f) of Article 3 of this  
666 Contract shall be no more than the otherwise applicable Rate for Irrigation Water or M&I Water  
667 under subdivision (a) of this Article.

668           (g)     Payments to be made by the Contractor to the United States under this  
669 Contract may be paid from any revenues available to the Contractor.

670           (h)     All revenues received by the United States from the Contractor relating to  
671 the delivery of Project Water or the delivery of non-Project water through Project facilities shall  
672 be allocated and applied in accordance with Federal Reclamation law and the associated rules or  
673 regulations, and the then-current Project ratesetting policies for M&I Water or Irrigation Water.

674           (i)     The Contracting Officer shall keep its accounts pertaining to the  
675 administration of the financial terms and conditions of its long-term contracts, in accordance  
676 with applicable Federal standards, so as to reflect the application of Project costs and revenues.  
677 The Contracting Officer shall, each Year upon request of the Contractor, provide to the  
678 Contractor a detailed accounting of all Project and Contractor expense allocations, the  
679 disposition of all Project and Contractor revenues, and a summary of all water delivery  
680 information. The Contracting Officer and the Contractor shall enter into good faith negotiations  
681 to resolve any discrepancies or disputes relating to accountings, reports, or information.

682           (j)     The parties acknowledge and agree that the efficient administration of this  
683 Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,



684 policies, and procedures used for establishing Rates, Charges, and Tiered Pricing Component,  
685 and/or for making and allocating payments, other than those set forth in this Article may be in  
686 the mutual best interest of the parties, it is expressly agreed that the parties may enter into  
687 agreements to modify the mechanisms, policies, and procedures for any of those purposes while  
688 this Contract is in effect without amending this Contract.

689           (k)   (1)   Beginning at such time as deliveries of Project Water in a Year  
690 exceed 80 percent of the Contract Total, then before the end of the month following the month of  
691 delivery the Contractor shall make an additional payment to the United States equal to the  
692 applicable Tiered Pricing Component. The Tiered Pricing Component for the amount of Water  
693 Delivered in excess of eighty (80) percent of the Contract Total, but less than or equal to ninety  
694 (90) percent of the Contract Total, shall equal the one-half of the difference between the Rate  
695 established under subdivision (a) of this Article and the Irrigation Full Cost Water Rate or M&I  
696 Full Cost Water Rate, whichever is applicable. The Tiered Pricing Component for the amount of  
697 Water Delivered which exceeds ninety (90) percent of the Contract Total shall equal the  
698 difference between (i) the Rate established under subdivision (a) of this Article and (ii) the  
699 Irrigation Full Cost Water Rate or M&I Full Cost Water Rate, whichever is applicable. For all  
700 Water Delivered pursuant to subdivision (a) of Article 3 of this Contract which is in excess of  
701 eighty (80) percent of the Contract Total, this increment shall be deemed to be divided between  
702 Irrigation Water and M&I Water in the same proportion as actual deliveries of each bear to the  
703 cumulative total Water Delivered.

704           (2)   Subject to the Contracting Officer's written approval, the  
705 Contractor may request and receive an exemption from such Tiered Pricing Component for  
706 Project Water delivered to produce a crop which the Contracting Officer determines will provide

707 significant and quantifiable habitat values for waterfowl in fields where the water is used and the  
708 crops are produced; *Provided, That* the exemption from the Tiered Pricing Component for  
709 Irrigation Water shall apply only if such habitat values can be assured consistent with the  
710 purposes of the CVPIA through binding agreements executed with or approved by the  
711 Contracting Officer prior to use of such water.

712 (3) For purposes of determining the applicability of the Tiered Pricing  
713 Component pursuant to this Article, Water Delivered shall include Project Water that the  
714 Contractor transfers to others, but shall not include Project Water transferred to the Contractor,  
715 nor shall it include the additional water provided to the Contractor under the provisions of  
716 subdivision (f) of Article 3 of this Contract.

717 (l) For the term of this Contract, Rates applied under the respective  
718 ratesetting policies will be established to recover only reimbursable O&M (including any  
719 deficits) and capital costs of the Project, as those terms are used in the then-current Project  
720 ratesetting policies, and interest, where appropriate, except in instances where a minimum Rate is  
721 applicable in accordance with the relevant Project ratesetting policy. Changes of significance in  
722 practices which implement the Contracting Officer's ratesetting policies will not be implemented  
723 until the Contracting Officer has provided the Contractor an opportunity to discuss the nature,  
724 need, and impact of the proposed change.

725 (m) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the  
726 CVPIA, the Rates for Project Water transferred by the Contractor shall be the Contractor's  
727 Rates, in accordance with the applicable Project ratesetting policy, adjusted upward or  
728 downward to reflect the changed costs if any incurred by the Contracting Officer in the delivery  
729 of the transferred Project Water to the transferee's point of delivery in accordance with the then-

730 current Project ratesetting policy. In addition, if the Contractor is receiving lower Rates and  
731 Charges because of inability to pay and is transferring Project Water to another entity whose  
732 Rates and Charges are not adjusted due to inability to pay, the Rates and Charges for transferred  
733 Project Water shall be the Contractor's Rates and Charges and will not be adjusted to reflect the  
734 Contractor's inability to pay.

735           (n) Pursuant to the Act of October 27, 1986 (100 Stat. 3050), the Contracting  
736 Officer is authorized to adjust determinations of ability to pay every five years.

737           (o) With respect to the Rates for M&I Water the Contractor asserts that it is  
738 not legally obligated to pay any Project deficits claimed by the United States to have accrued as  
739 of the date of this Contract or deficit-related interest charges thereon. By entering into this  
740 Contract, the Contractor does not waive any legal rights or remedies that it may have with  
741 respect to such disputed issues. Notwithstanding the execution of this Contract and payments  
742 made hereunder, the Contractor may challenge in the appropriate administrative or judicial  
743 forums: (1) the existence, computation, or imposition of any deficit charges accruing during the  
744 term of the Existing Contract and any preceding interim renewal contracts, if applicable; (2)  
745 interest accruing on any such deficits; (3) the inclusion of any such deficit charges or interest in  
746 the Rates; (4) the application by the United States of payments made by the Contractor under its  
747 Existing Contract and any preceding interim renewal contracts, if applicable; and (5) the  
748 application of such payments in the Rates. The Contracting Officer agrees that the Contractor  
749 shall be entitled to the benefit of any administrative or judicial ruling in favor of any Project  
750 M&I contractor on any of these issues, and credits for payments heretofore made, *Provided, That*  
751 the basis for such ruling is applicable to the Contractor.

752

NON-INTEREST BEARING O&M DEFICITS

753

8. The Contractor and the Contracting Officer concur that, as of the Effective Date,

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the Contractor has no non-interest-bearing O&M deficits and shall have no further liability

755

therefore.

756

SALES, TRANSFERS, OR EXCHANGES OF WATER

757

9. (a) The right to receive Project Water provided for in this Contract may be

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sold, transferred, or exchanged to others for reasonable and beneficial uses within the State of

759

California if such sale, transfer, or exchange is authorized by applicable Federal and State laws,

760

and applicable guidelines or regulations then in effect. No sale, transfer, or exchange of Project

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Water under this Contract may take place without the prior written approval of the Contracting

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Officer, except as provided for in subdivision (b) of this Article, and no such sales, transfers, or

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exchanges shall be approved absent all appropriate environmental documentation including but

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not limited to documents prepared pursuant to NEPA and ESA. Such environmental

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documentation should include, as appropriate, an analysis of groundwater impacts and economic

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and social effects, including environmental justice, of the proposed water transfers on both the

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transferor and transferee.

768

(b) In order to facilitate efficient water management by means of water

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transfers of the type historically carried out among Project Contractors located within the same

770

geographical area and to allow the Contractor to participate in an accelerated water transfer

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program during the term of this Contract, the Contracting Officer shall prepare, as appropriate,

772

all necessary environmental documentation including, but not limited to, documents prepared

773

pursuant to NEPA and ESA analyzing annual transfers within such geographical areas and the

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Contracting Officer shall determine whether such transfers comply with applicable law.

775 Following the completion of the environmental documentation, such transfers addressed in such  
776 documentation shall be conducted with advance notice to the Contracting Officer, but shall not  
777 require prior written approval by the Contracting Officer. Such environmental documentation  
778 and the Contracting Officer's compliance determination shall be reviewed every five years and  
779 updated, as necessary, prior to the expiration of the then-existing five (5)- year period. All  
780 subsequent environmental documentation shall include an alternative to evaluate not less than the  
781 quantity of Project Water historically transferred within the same geographical area.

782           (c) For a water transfer to qualify under subdivision (b) of this Article, such  
783 water transfer must: (i) be for irrigation purposes for lands irrigated within the previous three  
784 years, for M&I use, groundwater recharge, groundwater banking, similar groundwater activities,  
785 surface water storage, or fish and wildlife resources; not lead to land conversion; and be  
786 delivered to established cropland, wildlife refuges, groundwater basins or M&I use; (ii) occur  
787 within a single Year; (iii) occur between a willing seller and a willing buyer; (iv) convey water  
788 through existing facilities with no new construction or modifications to facilities and be between  
789 existing Project Contractors and/or the Contractor and the United States, Department of the  
790 Interior; and (v) comply with all applicable Federal, State, and local or tribal laws and  
791 requirements imposed for protection of the environment and Indian Trust Assets, as defined  
792 under Federal law.

793

APPLICATION OF PAYMENTS AND ADJUSTMENTS

794

10. (a) The amount of any overpayment by the Contractor of the Contractor's

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O&M, capital, and deficit (if any) obligations for the Year shall be applied first to any current

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liabilities of the Contractor arising out of this Contract then due and payable. Overpayments of

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more than \$1,000 shall be refunded at the Contractor's request. In lieu of a refund, any amount

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of such overpayment, at the option of the Contractor, may be credited against amounts to become

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due to the United States by the Contractor. With respect to overpayment, such refund or

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adjustment shall constitute the sole remedy of the Contractor or anyone having or claiming to

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have the right to the use of any of the Project Water supply provided for by this Contract. All

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credits and refunds of overpayments shall be made within thirty (30) days of the Contracting

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Officer obtaining direction as to how to credit or refund such overpayment in response to the

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notice to the Contractor that it has finalized the accounts for the Year in which the overpayment

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was made.

806

(b) All advances for miscellaneous costs incurred for work requested by the

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Contractor pursuant to Article 24 of this Contract shall be adjusted to reflect the actual costs

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when the work has been completed. If the advances exceed the actual costs incurred, the

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difference will be refunded to the Contractor. If the actual costs exceed the Contractor's

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advances, the Contractor will be billed for the additional costs pursuant to Article 24 of this

811

Contract.

812

TEMPORARY REDUCTIONS – RETURN FLOWS

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11. (a) Subject to: (i) the authorized purposes and priorities of the Project and the

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requirements of Federal law; and (ii) the obligations of the United States under existing

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contracts, or renewals thereof, providing for water deliveries from the Project; and (iii) the terms

816 and conditions of this Contract; the Contracting Officer shall make all reasonable efforts to  
817 optimize Project Water deliveries for the Contractor as provided in this Contract.

818           (b) The Contracting Officer or Operating Non-Federal Entity/Entities may  
819 temporarily discontinue or reduce the quantity of Water Delivered for the Contractor as herein  
820 provided for the purposes of investigation, inspection, maintenance, repair, or replacement of any  
821 of the Project facilities or any part thereof necessary for the delivery of Project Water for the  
822 Contractor, but so far as feasible the Contracting Officer, or Operating Non-Federal  
823 Entity/Entities will give the Contractor due notice in advance of such temporary discontinuance  
824 or reduction, except in case of emergency, in which case no notice need be given; *Provided, That*  
825 the United States shall use its best efforts to avoid any discontinuance or reduction in such  
826 service. Upon resumption of service after such reduction or discontinuance, and if requested by  
827 the Contractor, the United States will, if possible, deliver the quantity of Project Water which  
828 would have been delivered hereunder in the absence of such discontinuance or reduction.

829           (c) The United States reserves the right to all seepage and return flow water  
830 derived from Water Delivered to the Contractor hereunder which escapes or is discharged  
831 beyond the Contractor's Service Area; *Provided, That* this shall not be construed as claiming for  
832 the United States any right to seepage or return flow being put to reasonable and beneficial use  
833 pursuant to this Contract within the Contractor's Service Area by the Contractor or those  
834 claiming by, through, or under the Contractor.

835                           CONSTRAINTS ON THE AVAILABILITY OF WATER

836           12. (a) In its operation of the Project, the Contracting Officer will use all  
837 reasonable means to guard against a Condition of Shortage in the quantity of Project Water to be  
838 made available to the Contractor pursuant to this Contract. In the event the Contracting Officer  
839 determines that a Condition of Shortage appears probable, the Contracting Officer will notify the  
840 Contractor of said determination as soon as practicable.

841 (b) If there is a Condition of Shortage because of inaccurate runoff forecasting  
842 or other similar operational errors affecting the Project; drought, and other physical or natural  
843 causes beyond the control of the Contracting Officer; or actions taken by the Contracting Officer  
844 to meet current and future legal obligations, then, except as provided in subdivision (a) of Article  
845 17 of this Contract, no liability shall accrue against the United States or any of its officers,  
846 agents, or employees for any damage, direct or indirect, arising therefrom.

847 (c) In any Year in which there may occur a Condition of Shortage for any of  
848 the reasons specified in subdivision (b) of this Article, the Contracting Officer shall apportion the  
849 available Project Water supply among the Contractors and others entitled, under existing  
850 contracts and future contracts (to the extent such future contracts are permitted under subsections  
851 (a) and (b) of Section 3404 of the CVPIA) and renewals thereof, to receive Project Water  
852 consistent with the contractual obligations of the United States.

853 (d) To the extent applicable, Project Water furnished under this Contract will  
854 be allocated in accordance with the then-existing Project M&I Water Shortage Policy. Such  
855 policy shall be amended, modified, or superseded only through a public notice and comment  
856 procedure.

857 (e) By entering into this Contract, the Contractor does not waive any legal  
858 rights or remedies it may have to file or participate in any administrative or judicial proceeding  
859 contesting: (i) the sufficiency of the then-current Project M&I Water Shortage Policy; (ii) the  
860 substance of such a policy; or (iii) the applicability of such a policy. By agreeing to the  
861 foregoing, the Contracting Officer does not waive any legal defenses or remedies that it may then  
862 have to assert in such a proceeding.

863 UNAVOIDABLE GROUNDWATER PERCOLATION

864 13. (a) To the extent applicable, the Contractor shall not be deemed to have  
865 delivered Irrigation Water to Excess Lands or Ineligible Lands within the meaning of this



866 Contract if such lands are irrigated with groundwater that reaches the underground strata as an  
867 unavoidable result of the delivery of Irrigation Water by the Contractor to Eligible Lands.

868 (b) Upon complete payment of the Repayment Obligation by the Contractor,  
869 this Article 13 shall no longer be applicable.

870 COMPLIANCE WITH FEDERAL RECLAMATION LAWS

871 14. The parties agree that the delivery of Irrigation Water or use of Federal facilities  
872 pursuant to this Contract is subject to Federal Reclamation law, including but not limited to, the  
873 Reclamation Reform Act of 1982 (43 U.S.C. 390aa, et seq.), as amended and supplemented, and  
874 the rules and regulations promulgated by the Secretary of the Interior under Federal Reclamation  
875 law.

876 PROTECTION OF WATER AND AIR QUALITY

877 15. (a) Omitted.

878 (b) The United States will care for, operate and maintain reserved works in a  
879 manner that preserves the quality of the water at the highest level possible as determined by the  
880 Contracting Officer. The United States does not warrant the quality of the water delivered to the  
881 Contractor and is under no obligation to furnish or construct water treatment facilities to  
882 maintain or improve the quality of water delivered to the Contractor.

883 (c) The Contractor will comply with all applicable water and air pollution  
884 laws and regulations of the United States and the State of California; and shall obtain all required  
885 permits or licenses from the appropriate Federal, State, or local authorities necessary for the  
886 delivery of water by the Contractor; and shall be responsible for compliance with all Federal,  
887 State, and local water quality standards applicable to surface and subsurface drainage and/or  
888 discharges generated through the use of Federal or Contractor facilities or Project Water  
889 provided by the Contractor within the its Service Area.

890 (d) This Article shall not affect or alter any legal obligations of the Secretary  
891 to provide drainage or other discharge services.

892 WATER ACQUIRED BY THE CONTRACTOR OTHER THAN FROM THE UNITED  
893 STATES

894 16. (a) Water or water rights now owned or hereafter acquired by the Contractor  
895 other than from the United States and Irrigation Water furnished pursuant to the terms of this

896 Contract may be simultaneously transported through the same distribution facilities of the  
897 Contractor subject to the following: (i) if the facilities utilized for commingling Irrigation Water  
898 and non-project water were constructed without funds made available pursuant to Federal  
899 Reclamation law, the provisions of Federal Reclamation law will be applicable only to the  
900 Landholders of lands which receive Irrigation Water; (ii) the eligibility of land to receive  
901 Irrigation Water must be established through the certification requirements as specified in the  
902 Acreage Limitation Rules and Regulations (43 CFR Part 426); and (iii) the water requirements of  
903 Eligible Lands within the Contractor's Service Area can be established and the quantity of  
904 Irrigation Water to be utilized is less than or equal to the quantity necessary to irrigate such  
905 Eligible Lands. The Contractor and the Contracting Officer concur that the Contractor's  
906 distribution system was constructed without funds made available pursuant to Federal  
907 Reclamation law. The use of this distribution system is not subject to the provisions of this  
908 subdivision of this Article.

909           (b) Water or water rights now owned or hereafter acquired by the Contractor,  
910 other than from the United States or adverse to the Project or its contractors (i.e., non-project  
911 water), may be stored, conveyed, and/or diverted through Project facilities, subject to the  
912 completion of appropriate environmental documentation, with the approval of the Contracting  
913 Officer and the execution of any contract determined by the Contracting Officer to be necessary,  
914 consistent with the following provisions:

915           (1) The Contractor may introduce non-Project water into Project  
916 facilities and deliver said water to lands within the Contractor's Service Area, including  
917 Ineligible Lands, subject to payment to the United States and/or to any applicable Operating  
918 Non-Federal Entity of an appropriate rate as determined by the applicable Project ratesetting

919 policy, the Reclamation Reform Act of 1982, and the Project use power policy, if such  
920 Project use power policy is applicable, each as amended, modified, or superseded from time to  
921 time.

922 (2) Delivery of such non-Project water in and through Project facilities  
923 shall only be allowed to the extent such deliveries do not: (i) interfere with other Project  
924 purposes as determined by the Contracting Officer; (ii) reduce the quantity or quality of water  
925 available to other Project Contractors; (iii) interfere with the delivery of contractual water  
926 entitlements to any other Project Contractors; or (iv) interfere with the physical maintenance of  
927 the Project facilities.

928 (3) Neither the United States nor the Operating Non-Federal  
929 Entity(ies) shall be responsible for control, care, or distribution of the non-Project water before it  
930 is introduced into or after it is delivered from the Project facilities. The Contractor hereby  
931 releases and agrees to defend and indemnify the United States and the Operating Non-Federal  
932 Entity(ies), and their respective officers, agents, and employees, from any claim for damage to  
933 persons or property, direct or indirect, resulting from the act(s) of the Contractor its officers,  
934 employees, agents or assigns, in (i) extracting or diverting non-Project water from any source, or  
935 (ii) diverting such non-Project water into Project facilities.

936 (4) Diversion of such non-Project water into Project facilities shall be  
937 consistent with all applicable laws, and if involving groundwater, consistent with any applicable  
938 groundwater management plan for the area from which it was extracted.

939 (5) After Project purposes are met, as determined by the Contracting  
940 Officer, the United States and the Contractor shall share priority to utilize the remaining capacity  
941 of the facilities declared to be available by the Contracting Officer for conveyance and

942 transportation of non-Project water prior to any such remaining capacity being made available to  
943 non-Project contractors.

944 (c) Upon complete payment of the Repayment Obligation by the Contractor,  
945 subdivision (a) of this Article 16 shall no longer be applicable.

946 OPINIONS AND DETERMINATIONS

947 17. (a) Where the terms of this Contract provide for actions to be based upon the  
948 opinion or determination of either party to this Contract, said terms shall not be construed as  
949 permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or  
950 determinations. The parties, notwithstanding any other provisions of this Contract, expressly  
951 reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious,  
952 or unreasonable opinion or determination. Each opinion or determination by either party shall be  
953 provided in a timely manner. Nothing in subdivision (a) of this Article 17 is intended to or shall  
954 affect or alter the standard of judicial review applicable under Federal law to any opinion or  
955 determination implementing a specific provision of Federal law embodied in statute or  
956 regulation.

957 (b) The Contracting Officer shall have the right to make determinations  
958 necessary to administer this Contract that are consistent with the provisions of this Contract, the  
959 laws of the United States and of the State of California, and the rules and regulations  
960 promulgated by the Secretary of the Interior. Such determinations shall be made in consultation  
961 with the Contractor to the extent reasonably practicable.

962 COORDINATION AND COOPERATION

963 18. (a) In order to further their mutual goals and objectives, the Contracting  
964 Officer and the Contractor shall communicate, coordinate, and cooperate with each other, and

965 with other affected Project Contractors, in order to improve the O&M of the Project. The  
966 communication, coordination, and cooperation regarding O&M shall include, but not be limited  
967 to, any action which will or may materially affect the quantity or quality of Project Water supply,  
968 the allocation of Project Water supply, and Project financial matters including, but not limited to,  
969 budget issues. The communication, coordination, and cooperation provided for hereunder shall  
970 extend to all provisions of this Contract. All parties shall retain exclusive decision making  
971 authority for all actions, opinions, and determinations to be made by the respective party.

972           (b) Within one-hundred twenty (120) days following the Effective Date, the  
973 Contractor, other affected Project Contractors, and the Contracting Officer shall arrange to meet  
974 with interested Project Contractors to develop a mutually agreeable, written Project-wide  
975 process, which may be amended as necessary separate and apart from this Contract. The goal of  
976 this process shall be to provide, to the extent practicable, the means of mutual communication  
977 and interaction regarding significant decisions concerning Project O&M on a real-time basis.

978           (c) In light of the factors referred to in subdivision (b) of Article 3 of this  
979 Contract, it is the intent of the Secretary to improve water supply reliability. To carry out this  
980 intent:

981                   (1) The Contracting Officer will, at the request of the Contractor,  
982 assist in the development of integrated resource management plans for the Contractor. Further,  
983 the Contracting Officer will, as appropriate, seek authorizations for implementation of  
984 partnerships to improve water supply, water quality, and reliability.

985                   (2) The Secretary will, as appropriate, pursue program and project  
986 implementation and authorization in coordination with Project Contractors to improve the water  
987 supply, water quality, and reliability of the Project for all Project purposes.

988 (3) The Secretary will coordinate with Project Contractors and the  
989 State of California to seek improved water resource management.

990 (4) The Secretary will coordinate actions of agencies within the  
991 Department of the Interior that may impact the availability of water for Project purposes.

992 (5) The Contracting Officer shall periodically, but not less than  
993 annually, hold division level meetings to discuss Project operations, division level water  
994 management activities, and other issues as appropriate.

995 (d) Without limiting the contractual obligations of the Contracting Officer  
996 under the other Articles of this Contract, nothing in this Article shall be construed to limit or  
997 constrain the Contracting Officer's ability to communicate, coordinate, and cooperate with the  
998 Contractor or other interested stakeholders or to make decisions in a timely fashion as needed to  
999 protect health, safety, or the physical integrity of structures or facilities.

1000 CHARGES FOR DELINQUENT PAYMENTS

1001 19. (a) The Contractor shall be subject to interest, administrative, and penalty  
1002 charges on delinquent payments. If a payment is not received by the due date, the Contractor  
1003 shall pay an interest charge on the delinquent payment for each day the payment is delinquent  
1004 beyond the due date. If a payment becomes 60 days delinquent, the Contractor shall pay, in  
1005 addition to the interest charge, an administrative charge to cover additional costs of billing and  
1006 processing the delinquent payment. If a payment is delinquent 90 days or more, the Contractor  
1007 shall pay, in addition to the interest and administrative charges, a penalty charge for each day the  
1008 payment is delinquent beyond the due date, based on the remaining balance of the payment due  
1009 at the rate of 6 percent per year. The Contractor shall also pay any fees incurred for debt  
1010 collection services associated with a delinquent payment.

1011 (b) The interest rate charged shall be the greater of either the rate prescribed  
1012 quarterly in the Federal Register by the Department of the Treasury for application to overdue  
1013 payments, or the interest rate of 0.5 percent per month. The interest rate charged will be  
1014 determined as of the due date and remain fixed for the duration of the delinquent period.

1015 (c) When a partial payment on a delinquent account is received, the amount  
1016 received shall be applied first to the penalty charges, second to the administrative charges, third  
1017 to the accrued interest, and finally to the overdue payment.

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EQUAL EMPLOYMENT OPPORTUNITY

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20. During the performance of this Contract, the Contractor agrees as follows:

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(a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

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(b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

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(c) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

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(d) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Contracting Officer, advising the labor union or workers' representative of the Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

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(e) The Contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

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(f) The Contractor will furnish all information and reports required by Executive Order No. 11246 of Sept. 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation to ascertain

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1057 compliance with such rules, regulations, and orders.

1058 (g) In the event of the Contractor's noncompliance with the nondiscrimination  
 1059 clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be  
 1060 canceled, terminated or suspended in whole or in part and the Contractor may be declared  
 1061 ineligible for further Government contracts in accordance with procedures authorized in  
 1062 Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and  
 1063 remedies invoked as provided in Executive Order No. 11246 of Sept. 24, 1965 or by rule,  
 1064 regulation, or order of the Secretary of Labor, or as otherwise provided by law.

1065 (h) The Contractor will include the provisions of paragraphs (a) through (g) in  
 1066 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the  
 1067 Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of Sept. 24,  
 1068 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor  
 1069 will take such action with respect to any subcontract or purchase order as may be directed by the  
 1070 Secretary of Labor as a means of enforcing such provisions, including sanctions for  
 1071 noncompliance: *Provided, however, That* in the event the Contractor becomes involved in, or is  
 1072 threatened with, litigation with a subcontractor or vendor as a result of such direction, the  
 1073 Contractor may request the United States to enter into such litigation to protect the interests of  
 1074 the United States.

1075 GENERAL OBLIGATION – BENEFITS CONDITIONED UPON PAYMENT

1076 21. (a) The obligation of the Contractor to pay the United States as provided in  
 1077 this Contract is a general obligation of the Contractor notwithstanding the manner in which the  
 1078 obligation may be distributed among the Contractor's water users and notwithstanding the default  
 1079 of individual water users in their obligation to the Contractor.

1080 (b) The payment of charges becoming due pursuant to this Contract is a  
 1081 condition precedent to receiving benefits under this Contract. The United States shall not make  
 1082 water available to the Contractor through Project facilities during any period in which the  
 1083 Contractor is in arrears in the advance payment of water rates due the United States. The  
 1084 Contractor shall not deliver water under the terms and conditions of this Contract for lands or  
 1085 parties that are in arrears in the advance payment of water rates as levied or established by the  
 1086 Contractor.

1087 (c) With respect to subdivision (b) of this Article, the Contractor shall have no  
 1088 obligation to require advance payment for water rates which it levies.

1089 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

1090 22. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964  
 1091 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (Pub. L. 93-112, Title V, as  
 1092 amended; 29 U.S.C. § 791, et seq.), the Age Discrimination Act of 1975 (Pub. L. 94-135, Title  
 1093 III; 42 U.S.C. § 6101, et seq.), Title II of the Americans with Disabilities Act of 1990 (Pub. L.



1094 101-336; 42 U.S.C. § 12131, et seq.), and any other applicable civil rights laws, and with the  
1095 applicable implementing regulations and any guidelines imposed by the U.S. Department of the  
1096 Interior and/or Bureau of Reclamation.

1097 (b) These statutes prohibit any person in the United States from being  
1098 excluded from participation in, being denied the benefits of, or being otherwise subjected to  
1099 discrimination under any program or activity receiving financial assistance from the Bureau of  
1100 Reclamation on the grounds of race, color, national origin, disability, or age. By executing this  
1101 Contract, the Contractor agrees to immediately take any measures necessary to implement this  
1102 obligation, including permitting officials of the United States to inspect premises, programs, and  
1103 documents.

1104 (c) The Contractor makes this Contract in consideration of and for the  
1105 purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other  
1106 Federal financial assistance extended after the date hereof to the Contractor by the Bureau of  
1107 Reclamation, including installment payments after such date on account of arrangements for  
1108 Federal financial assistance which were approved before such date. The Contractor recognizes  
1109 and agrees that such Federal assistance will be extended in reliance on the representations and  
1110 agreements made in this Article and that the United States reserves the right to seek judicial  
1111 enforcement thereof.

1112 (d) Complaints of discrimination against the Contractor shall be investigated  
1113 by the Contracting Officer's Office of Civil Rights.

1114 PRIVACY ACT COMPLIANCE

1115 23. (a) The Contractor shall comply with the Privacy Act of 1974 (Privacy Act)  
1116 (5 U.S.C. § 552a) and the Department of the Interior rules and regulations under the Privacy Act  
1117 (43 C.F.R. § 2.45, et seq.) in maintaining Landholder certification and reporting records required  
1118 to be submitted to the Contractor for compliance with Sections 206, 224(c), and 228 of the  
1119 Reclamation Reform Act of 1982 (43 U.S.C. §§ 390ff, 390ww, and 390zz), and pursuant to 43  
1120 C.F.R. § 426.18.

1121 (b) With respect to the application and administration of the criminal penalty  
1122 provisions of the Privacy Act (5 U.S.C. § 552a(i)), the Contractor and the Contractor's  
1123 employees who are responsible for maintaining the certification and reporting records referenced  
1124 in paragraph (a) above are considered to be employees of the Department of the Interior. See 5  
1125 U.S.C. § 552a(m).

1126 (c) The Contracting Officer or a designated representative shall provide the  
1127 Contractor with current copies of the Department of the Interior Privacy Act regulations and the  
1128 Bureau of Reclamation Federal Register Privacy Act System of Records Notice (Interior/WBR-  
1129 31, Acreage Limitation) which govern the maintenance, safeguarding, and disclosure of  
1130 information contained in the Landholders' certification and reporting records.

1131 (d) The Contracting Officer shall designate a full-time employee of the

1132 Bureau of Reclamation to be the System Manager responsible for making decisions on denials  
1133 pursuant to 43 C.F.R. §§ 2.61 and 2.64 and amendment requests pursuant to 43 C.F.R. § 2.72.  
1134 The Contractor is authorized to grant requests by individuals for access to their own records.

1135 (e) The Contractor shall forward promptly to the System Manager each  
1136 proposed denial of access under 43 C.F.R. § 2.64 and each request for amendment of records  
1137 filed under 43 C.F.R. § 2.71; notify the requester accordingly of such referral; and provide the  
1138 System Manager with information and records necessary to prepare an appropriate response to  
1139 the requester. These requirements do not apply to individuals seeking access to their own  
1140 certification and reporting forms filed with the Contractor pursuant to 43 C.F.R. § 426.18 unless  
1141 the requester elects to cite the Privacy Act as authority for the request.

1142 (f) Upon complete payment of the Repayment Obligation by the  
1143 Contractor, this Article 23 will no longer be applicable.

1144 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

1145 24. In addition to all other payments to be made by the Contractor pursuant to this  
1146 Contract, the Contractor shall pay to the United States, within sixty (60) days after receipt of a  
1147 bill and detailed statement submitted by the Contracting Officer to the Contractor for such  
1148 specific items of direct cost incurred by the United States for work requested by the Contractor  
1149 associated with this Contract plus indirect costs in accordance with applicable Bureau of  
1150 Reclamation policies and procedures. All such amounts referred to in this Article shall not  
1151 exceed the amount agreed to in writing in advance by the Contractor. This Article shall not  
1152 apply to costs for routine contract administration.

1153 WATER CONSERVATION

1154 25. (a) Prior to the delivery of water provided from or conveyed through  
1155 Federally constructed or Federally financed facilities pursuant to this Contract, the  
1156 Contractor shall develop a water conservation plan, as required by subsection 210(b) of the  
1157 Reclamation Reform Act of 1982 and 43 C.F.R. 427.1 (Water Conservation Rules and  
1158 Regulations).

1159 Additionally, an effective water conservation and efficiency program shall be based on the  
1160 Contractor's water conservation plan that has been determined by the Contracting Officer to

1161 meet the conservation and efficiency criteria for evaluating water conservation plans  
1162 established under Federal law. The water conservation and efficiency program shall contain  
1163 definite water conservation objectives, appropriate economically feasible water conservation  
1164 measures, and time schedules for meeting those objectives. Continued Project Water delivery  
1165 pursuant to this Contract shall be contingent upon the Contractor's continued implementation of  
1166 such water conservation program. In the event the Contractor's water conservation plan or any  
1167 revised water conservation plan completed pursuant to subdivision (d) of this Article 25 have not  
1168 yet been determined by the Contracting Officer to meet such criteria, due to circumstances which  
1169 the Contracting Officer determines are beyond the control of the Contractor, water deliveries  
1170 shall be made under this Contract so long as the Contractor diligently works with the Contracting  
1171 Officer to obtain such determination at the earliest practicable date, and thereafter the Contractor  
1172 immediately begins implementing its water conservation and efficiency program in accordance  
1173 with the time schedules therein.

1174 (b) Should the amount of M&I Water delivered pursuant to subdivision (a) of  
1175 Article 3 of this Contract equal or exceed two thousand (2,000) acre-feet per Year, the  
1176 Contractor shall implement the Best Management Practices identified by the time frames issued  
1177 by the Mid-Pacific Region's then-existing conservation and efficiency criteria for such  
1178 M&I Water unless any such practice is determined by the Contracting Officer to be inappropriate  
1179 for the Contractor.

1180 (c) The Contractor shall submit to the Contracting Officer a report on the  
1181 status of its implementation of the water conservation plan on the reporting dates specified in the  
1182 then existing conservation and efficiency criteria established under Federal law.

1183 (d) At five (5)-year intervals, the Contractor shall revise its water

1184 conservation plan to reflect the then-existing conservation and efficiency criteria for evaluating  
1185 water conservation plans established under Federal law and submit such revised water  
1186 management plan to the Contracting Officer for review and evaluation. The Contracting Officer  
1187 will then determine if the water conservation plan meets Reclamation's then-existing  
1188 conservation and efficiency criteria for evaluating water conservation plans established under  
1189 Federal law.

1190 (e) If the Contractor is engaged in direct groundwater recharge, such activity  
1191 shall be described in the Contractor's water conservation plan.

1192 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1193 26. Except as specifically provided in Article 16 of this Contract, the provisions of  
1194 this Contract shall not be applicable to or affect non-project water or water rights now owned or  
1195 hereafter acquired by the Contractor or any user of such water within the Contractor's Service  
1196 Area. Any such water shall not be considered Project Water under this Contract. In addition,  
1197 this Contract shall not be construed as limiting or curtailing any rights which the Contractor or  
1198 any water user within the Contractor's Service Area acquires or has available under any other  
1199 contract pursuant to Federal Reclamation law.

1200 OPERATION AND MAINTENANCE BY THE OPERATING NON-FEDERAL ENTITY(IES)

1201 27. (a) The O&M of a portion of the Project facilities which serve the Contractor,  
1202 and responsibility for funding a portion of the costs of such O&M, have been transferred to two  
1203 Operating Non-Federal Entities by separate agreement between the United States and the  
1204 Operating Non-Federal Entities. Those separate agreements shall not interfere with or affect the  
1205 rights or obligations of the Contractor or the United States hereunder. Specifically, portions of  
1206 the Delta-Mendota Canal, the San Luis Canal and other related facilities are operated by the San

1207 Luis & Delta Mendota Water Authority and the Friant-Kern Canal and related facilities are  
1208 operated by the Friant Water Authority.

1209           (b)     The Contracting Officer has previously notified the Contractor in writing  
1210 that the O&M of a portion of the Project facilities which serve the Contractor has been  
1211 transferred to the Operating Non-Federal Entity, and therefore, the Contractor shall pay directly  
1212 to the applicable Operating Non-Federal Entity(ies), or to any successor(s) approved by the  
1213 Contracting Officer under the terms and conditions of the separate agreement(s) between the  
1214 United States and the Operating Non-Federal Entity(ies) described in subdivision (a) of this  
1215 Article, all rates, charges, or assessments of any kind, including any assessment for reserve  
1216 funds, which the Operating Non-Federal Entity(ies) or such successor(s) determines, sets, or  
1217 establishes for the O&M of the portion of the Project facilities operated and maintained by the  
1218 Operating Non-Federal Entity or such successor. Such direct payments to the Operating Non-  
1219 Federal Entity or such successor shall not relieve the Contractor of its obligation to pay directly  
1220 to the United States the Contractor's share of the Project Rates, Charges, and Tiered Pricing  
1221 Component(s) except to the extent the Operating Non-Federal Entity collects payments on behalf  
1222 of the United States in accordance with the separate agreement identified in subdivision (a) of  
1223 this Article.

1224           (c)     For so long as the O&M of any portion of the Project facilities serving the  
1225 Contractor is performed by the Operating Non-Federal Entity(ies), or any successor(s) thereto,  
1226 the Contracting Officer shall adjust those components of the Rates for Water Delivered under  
1227 this Contract representing the cost associated with the activity being performed by the Operating  
1228 Non-Federal Entity(ies) or its (their) successor(s).

1229                   (d)     In the event the O&M of the Project facilities operated and maintained by  
1230 the Operating Non-Federal Entity(ies) is re-assumed by the United States during the term of this  
1231 Contract, the Contracting Officer shall so notify the Contractor, in writing, and present to the  
1232 Contractor a revised Exhibit "B" which shall include the portion of the Rates to be paid by the  
1233 Contractor for Project Water under this Contract representing the O&M costs of the portion of  
1234 such Project facilities which have been re-assumed. The Contractor shall, thereafter, in the  
1235 absence of written notification from the Contracting Officer to the contrary, pay the Rates,  
1236 Charges, and Tiered Pricing Component(s) specified in the revised Exhibit "B" directly to the  
1237 United States in compliance with Article 7 of this Contract.

1238                   CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1239                   28.     The expenditure or advance of any money or the performance of any obligation of  
1240 the United States under this Contract shall be contingent upon appropriation or allotment of  
1241 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any  
1242 obligations under this Contract. No liability shall accrue to the United States in case funds are  
1243 not appropriated or allotted.

1244                   BOOKS, RECORDS, AND REPORTS

1245                   29.     (a)     The Contractor shall establish and maintain accounts and other books and  
1246 records pertaining to administration of the terms and conditions of this Contract, including the  
1247 Contractor's financial transactions; water supply data; project operations, maintenance, and  
1248 replacement logs; project land and rights-of-way use agreements; the water users' land-use (crop  
1249 census), land-ownership, land-leasing, and water-use data; and other matters that the Contracting  
1250 Officer may require Reports shall be furnished to the Contracting Officer in such form and on  
1251 such date or dates as the Contracting Officer may require. Subject to applicable Federal laws  
1252 and regulations, each party to this Contract shall have the right during office hours to examine  
1253 and make copies of the other party's books and records relating to matters covered by this  
1254 Contract.

1255                   (b)     Notwithstanding the provisions of subdivision (a) of this Article, no  
1256 books, records, or other information shall be requested from the Contractor by the Contracting  
1257 Officer unless such books, records, or information are reasonably related to the administration or

1258 performance of this Contract. Any such request shall allow the Contractor a reasonable period of  
1259 time within which to provide the requested books, records, or information.

1260 (c) At such time as the Contractor provides information to the Contracting  
1261 Officer pursuant to subdivision (a) of this Article, a copy of such information shall be provided  
1262 to the Operating Non-Federal Entity(ies).

1263 ASSIGNMENT LIMITED – SUCCESSORS AND ASSIGNS OBLIGATED

1264 30. (a) The provisions of this Contract shall apply to and bind the successors and  
1265 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest  
1266 therein by either party shall be valid until approved in writing by the other party.

1267 (b) The assignment of any right or interest in this Contract by either party  
1268 shall not interfere with the rights or obligations of the other party to this Contract absent the  
1269 written concurrence of said other party.

1270 (c) The Contracting Officer shall not unreasonably condition or withhold  
1271 approval of any proposed assignment.

1272 SEVERABILITY

1273 31. In the event that a person or entity who is neither (i) a party to a Project contract,  
1274 nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor  
1275 (iii) an association or other form of organization whose primary function is to represent parties to  
1276 Project contracts, brings an action in a court of competent jurisdiction challenging the legality or  
1277 enforceability of a provision included in this Contract and said person, entity, association, or  
1278 organization obtains a final court decision holding that such provision is legally invalid or  
1279 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s),  
1280 the parties to this Contract shall use their best efforts to (i) within thirty (30) days of the date of  
1281 such final court decision identify by mutual agreement the provisions in this Contract which

1282 must be revised and (ii) within three months thereafter promptly agree on the appropriate  
1283 revision(s). The time periods specified above may be extended by mutual agreement of the  
1284 parties. Pending the completion of the actions designated above, to the extent it can do so  
1285 without violating any applicable provisions of law, the United States shall continue to make the  
1286 quantities of Project Water specified in this Contract available to the Contractor pursuant to the  
1287 provisions of this Contract which were not found to be legally invalid or unenforceable in the  
1288 final court decision.

1289 RESOLUTION OF DISPUTES

1290 32. Should any dispute arise concerning any provisions of this Contract, or the  
1291 parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to  
1292 resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting  
1293 Officer referring any matter to the Department of Justice, the party shall provide to the other  
1294 party thirty (30) days written notice of the intent to take such action; *Provided, That* such notice  
1295 shall not be required where a delay in commencing an action would prejudice the interests of the  
1296 party that intends to file suit. During the thirty (30) day notice period, the Contractor and the  
1297 Contracting Officer shall meet and confer in an attempt to resolve the dispute. Except as  
1298 specifically provided, nothing herein is intended to waive or abridge any right or remedy that the  
1299 Contractor or the United States may have.

1300 OFFICIALS NOT TO BENEFIT

1301 33. No Member of or Delegate to the Congress, Resident Commissioner, or official of  
1302 the Contractor shall benefit from this Contract other than as a water user or landowner in the  
1303 same manner as other water users or landowners.

1304 CHANGES IN CONTRACTOR'S ORGANIZATION AND/OR SERVICE AREA

1305 34. (a) While this Contract is in effect, no change may be made in the





1331 Reform Act of 1982 (96 Stat. 1269) shall apply to affected lands.

1332 (b) The obligation of a Contractor to pay the Additional Capital Obligation  
1333 shall not affect the Contractor's status as having repaid all of the construction costs assignable to  
1334 the Contractor or the applicability of subsections (a) and (b) of Section 213 of the Reclamation  
1335 Reform Act of 1982 (96 Stat. 1269) once the Repayment Obligation is paid.

1336 CERTIFICATION OF NONSEGREGATED FACILITIES

1337 37. The Contractor hereby certifies that it does not maintain or provide for its  
1338 employees any segregated facilities at any of its establishments and that it does not permit its  
1339 employees to perform their services at any location under its control where segregated facilities  
1340 are maintained. It certifies further that it will not maintain or provide for its employees any  
1341 segregated facilities at any of its establishments and that it will not permit its employees to  
1342 perform their services at any location under its control where segregated facilities are  
1343 maintained. The Contractor agrees that a breach of this certification is a violation of the Equal  
1344 Employment Opportunity clause in this Contract. As used in this certification, the term  
1345 "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms,  
1346 restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas,  
1347 parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing  
1348 facilities provided for employees which are segregated by explicit directive or are in fact  
1349 segregated on the basis of race, creed, color, or national origin, because of habit, local custom,  
1350 disability, or otherwise. The Contractor further agrees that (except where it has obtained  
1351 identical certifications from proposed subcontractors for specific time periods) it will obtain  
1352 identical certifications from proposed subcontractors prior to the award of subcontracts  
1353 exceeding \$10,000 which are not exempt from the provisions of the Equal Employment  
1354 Opportunity clause; that it will retain such certifications in its files; and that it will forward the  
1355 following notice to such proposed subcontractors (except where the proposed subcontractors  
1356 have submitted identical certifications for specific time periods):

1357 NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR  
1358 CERTIFICATIONS OF NONSEGREGATED FACILITIES

1359 A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract  
1360 exceeding \$10,000 which is not exempt from the provisions of the Equal Employment  
1361 Opportunity clause. The certification may be submitted either for each subcontract or for all  
1362 subcontracts during a period (i.e., quarterly, semiannually, or annually). Note: The penalty for  
1363 making false statements in offers is prescribed in 18 U.S.C. § 1001.

1364 NOTICES

1365 38. Any notice, demand, or request authorized or required by this Contract shall be  
1366 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or

1367 delivered to the Area Manager, South-Central California Area Office, 1243 N Street, Fresno,  
1368 California 93721, and on behalf of the United States, when mailed, postage prepaid, or delivered  
1369 to the Board of Directors, [INSERT CONTRACTOR INFORMATION]. The designation of the  
1370 addressee or the address may be changed by notice given in the same manner as provided in this  
1371 article for other notices.

1372 MEDIUM FOR TRANSMITTING PAYMENT

1373 39. (a) All payments from the Contractor to the United States under this Contract  
1374 shall be by the medium requested by the United States on or before the date payment is due. The  
1375 required method of payment may include checks, wire transfers, or other types of payment  
1376 specified by the United States.

1377 (b) Upon execution of the Contract, the Contractor shall furnish the  
1378 Contracting Officer with the Contractor's taxpayer's identification number (TIN). The purpose  
1379 for requiring the Contractor's TIN is for collecting and reporting any delinquent amounts arising  
1380 out of the Contractor's relationship with the United States.

1381 CONTRACT DRAFTING CONSIDERATIONS

1382 40. This amended Contract has been negotiated and reviewed by the parties hereto,  
1383 each of whom is sophisticated in the matters to which this amended Contract pertains. The  
1384 double-spaced Articles of this amended Contract have been drafted, negotiated, and reviewed by  
1385 the parties, and no one party shall be considered to have drafted the stated Articles. Single-  
1386 spaced Articles are standard Articles pursuant to Bureau of Reclamation policy.

1387 CONFIRMATION OF CONTRACT

1388 41. Promptly after the execution of this amended Contract, the Contractor shall  
1389 provide to the Contracting Officer a certified copy of a final decree of a court of competent  
1390 jurisdiction in the State of California, confirming the proceedings on the part of the Contractor  
1391 for the authorization of the execution of this amended Contract. This amended Contract shall not  
1392 be binding on the United States until the Contractor secures a final decree.



EXHIBIT A  
[Map or Description of Service Area]

EXHIBIT B  
[Initial Rates and Charges]

EXHIBIT C  
[Repayment Obligation]

***Appendix B-2 - Draft Proposed USBR WIIN Act Repayment Contract***



1 PROPOSED LONG-TERM CONVEYANCE CONTRACT AMONG  
2 THE DEPARTMENT OF WATER RESOURCES OF THE STATE OF CALIFORNIA,  
3 THE UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF  
4 RECLAMATION,  
5 AND INSERT CONTRACTOR NAME HERE  
6

7 THIS CONTRACT is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, in  
8 pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or  
9 supplementary thereto, including, but not limited to, the Acts of August 26, 1937 (50  
10 Stat. 844), as amended and supplemented, August 4, 1939 (53 Stat. 1187), as  
11 amended and supplemented, July 2, 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68),  
12 October 12, 1982 (96 Stat. 1263), October 27, 1986 (100 Stat. 3050), as amended, and  
13 Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), as amended, and the  
14 Water Infrastructure Improvements for the Nation Act (Public Law (Pub. L) 114-322, 130  
15 Stat. 1628), Section 4011 (a-d) and (f) ("WIIN Act"), all collectively hereinafter referred  
16 to as Federal Reclamation law and pursuant to the California Central Valley Project Act  
17 [Part 3, Division 6 (commencing at Section 11100) of the California Water Code], the  
18 California Water Resources Development Bond Act [Chapter 8, Part 6, Division 6  
19 (commencing at Section 12930) of the California Water Code,] and all acts of the  
20 California legislature amendatory thereto or supplementary thereof, and California  
21 Water Code sections 1810 through 1814, among THE DEPARTMENT OF WATER  
22 RESOURCES OF THE STATE OF CALIFORNIA, hereinafter referred to as DWR, THE  
23 UNITED STATES OF AMERICA, hereinafter referred to as the United States, and  
24 INSERT CONTRACTOR NAME HERE, hereinafter referred to as the Contractor, a public  
25 agency of the State of California, duly organized, existing, and acting pursuant to the  
26 laws thereof, with its principal place of business in California; collectively referred to as

1 Parties.

2 EXPLANATORY RECITALS

3 A. WHEREAS, the United States has constructed and is operating the  
4 Central Valley Project, California, (CVP) for diversion, storage, carriage, distribution and  
5 beneficial use, for flood control, irrigation, municipal, domestic, industrial, fish and  
6 wildlife mitigation, protection and restoration, generation and distribution of electric  
7 energy, salinity control, navigation and other beneficial uses, of waters of the  
8 Sacramento River, the American River, the Trinity River, and the San Joaquin River and  
9 their tributaries; and

10 B. WHEREAS, the United States constructed the CVP facilities, which will be  
11 used in part for furnishing the water which DWR will convey to the Contractor pursuant  
12 to the terms of this Contract; and

13 C. WHEREAS, CVP Water may be made available to the Contractor ~~in~~from  
14 the Sacramento-San Joaquin River Delta (Delta) and/or ~~from~~ the Friant Division of the  
15 CVP and delivered to the Contractor through appropriate federal, state and/or local  
16 facilities; and

17 D. WHEREAS, DWR is engaged in the operation of the State Water  
18 Resources Development System pursuant to the laws of the State of California involving  
19 the development, transportation, and delivery of water supplies to public agencies  
20 throughout the State of California; and

21 E. WHEREAS, the Cross Valley Canal, connecting the California Aqueduct  
22 and the Friant-Kern Canal in Kern County, has been constructed by the Contractor and  
23 others at no cost to either the United States or DWR and is currently operated by Kern

1 County Water Agency; and

2 F. WHEREAS, the Contractor has the right to use the Cross Valley Canal for  
3 conveyance of the CVP Water furnished hereunder; and

4 G. WHEREAS, the rights to CVP Water were acquired by the United States  
5 pursuant to California law for operation of the CVP; and

6 H. WHEREAS, the Contractor, DWR and the United States entered into  
7 Contract No. 14-06-200-LTR, as amended, which established terms for the delivery to  
8 the Contractor of CVP Water from November 12, 1975, through February 29, 1996; and

9 I. WHEREAS, the Contractor, DWR and the United States have pursuant to  
10 subsection 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA),  
11 subsequently entered into interim renewal contract(s) identified as Contract No(s). 14-  
12 06-200-LTR -IR1, IR2, IR3, IR4, IR5, IR6, IR7, IR8, IR9, IR10, IR11, IR12, IR13, IR14,  
13 IR15, IR16, IR17 and IR185 the current of which is hereinafter referred to as the  
14 Existing Contract, which provides for the continued water service to the Contractor from  
15 March 1, 2020, through February 289, 2022; and

16 ~~J. WHEREAS, Section 3404(e) of the CVPIA provides for long-term renewal~~  
17 ~~of the Existing Contract following completion of appropriate environmental~~  
18 ~~documentation, including a programmatic environmental impact statement (PEIS)~~  
19 ~~pursuant to the National Environmental Policy Act analyzing the direct and indirect~~  
20 ~~impacts and benefits of implementing the CVPIA and the potential renewal of all existing~~  
21 ~~contracts for CVP Water; and~~

22 ~~K. WHEREAS, the United States has completed the PEIS and all other~~  
23 ~~appropriate environmental review necessary to provide for long-term renewal of the~~

1 ~~Existing Contract and this Contract; and~~

2 ~~LJ.~~ WHEREAS, the Contractor has requested the conversionlong term  
3 renewal of the Existing Contract No. █ to a repayment contract pursuant to Section  
4 4011(a)(1) of the WIIN Act, pursuant to the terms of said contract, Federal Reclamation  
5 law, and the laws of the State of California, for water service from the CVP; and

6 ~~M.~~ ~~WHEREAS, the United States and DWR have determined that the~~  
7 ~~Contractor has fulfilled all of its obligations under the Existing Contract; and~~

8 ~~NK.~~ WHEREAS, to provide for the conversionlong term renewal of the Existing  
9 Contract No. █ to a repayment contract, the United States and Contractor shall,  
10 concurrent with the execution of this Contract, enter into that certain a repayment water  
11 service contract upon completion of necessary requirements of law for execution of  
12 such contract, Contract No. 14-06-200-LTR; and

13 ~~ML.~~ ~~WHEREAS, the United States and DWR have determined that the~~  
14 ~~Contractor has fulfilled all of its obligations under the Existing Contract; and~~

15 ~~OM.~~ WHEREAS, the Contractor has entered into an agreement entitled  
16 "Agreement Regarding California Environmental Quality Review for Cross Valley Canal  
17 Contractors' Contracts for Renewal of Central Valley Project Water Supply and  
18 Conveyance Through State Facilities" by and among the Contractor, other Cross Valley  
19 Canal contractors similarly situated to Contractor, and DWR. Pursuant to that  
20 agreement, Lower Tule Irrigation District, as Lead Agency, is preparing an  
21 Environmental Impact Report (EIR) pursuant to the California Environmental Quality Act  
22 (CEQA) on behalf of all CVC contractors to provide CEQA compliance for the execution  
23 of this Contract; and

1 PN. WHEREAS, DWR as a responsible agency has reviewed and considered  
2 the information in the EIR prepared by the -Lead Agency and all other appropriate  
3 environmental documentation prior to entering into this Contract; and

4 QO. WHEREAS, the parties intend by this Contract to continue a cooperative  
5 relationship in order to achieve their mutual goals; and

6 RP. WHEREAS, the United States and the Contractor desire to contract with  
7 DWR for conveyance of CVP Water through the facilities of the SWP under an  
8 arrangement wherein the United States will furnish the necessary power for pumping  
9 such water through DWR's Harvey O. Banks (Banks) Pumping Plant and Dos Amigos  
10 Pumping Plant (Dos Amigos) so that DWR can provide Contractor with the conveyance  
11 of CVP Water under the terms of this Contract; and

12 SQ. WHEREAS, -DWR desires to place its conveyance services into a  
13 contract separate from the contract providing for Reclamation's water service  
14 obligations; and

15 TR. WHEREAS, DWR is willing to convey such water through SWP Facilities  
16 subject to the needs for SWP project operations, services to SWP Contractors, -the  
17 availability of transportation capacity and payment of costs as herein provided; and

18 US. WHEREAS, the Existing Contract states that DWR shall negotiate in good  
19 faith with the Contractor and the United States in a process providing for the execution  
20 of a long-term renewal contract provided that no such contract shall obligate DWR  
21 beyond February 28, 2035, without further negotiations; and

22 VT. WHEREAS, the United States, DWR, and the Contractor are willing to  
23 enter into this long-term conveyance contract on the terms and conditions set forth

1 below.

2 AGREEMENT

3 NOW, THEREFORE, in consideration of the mutual and dependent covenants  
4 herein contained, it is hereby mutually agreed by the Parties hereto as follows:

5 1. DEFINITIONS

6 When used herein unless otherwise distinctly expressed, or manifestly  
7 incompatible with the intent of the Parties as expressed in this Contract, the term:

8 (a) "Calendar Year" shall mean the period January 1 through  
9 December 31, both dates inclusive;

10 (b) "Cross Valley Canal" shall mean the water conveyance and related  
11 works in Kern County constructed by the Contractor and others to deliver water from the  
12 SWP Facilities, which canal currently is operated by Kern County Water Agency;

13 (c) "Cross Valley Canal Operator" shall mean the entity which operates  
14 the Cross Valley Canal;

15 (d) "CVP" shall mean the Central Valley Project owned by the United  
16 States and managed by the Department of the Interior, Bureau of Reclamation;

17 (e) "CVP Water" shall mean all water that is developed, diverted,  
18 stored, or delivered by Reclamation in accordance with the statutes authorizing the CVP  
19 and in accordance with the terms and conditions of water rights acquired pursuant to  
20 California law made available to the Contractor pursuant to the Water Service Contract;

21 (f) "CVPIA" shall mean the Central Valley Project Improvement Act,  
22 Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

23 (g) "Minimum Operation, Maintenance, Power, & Replacement

1 (OMP&R) Costs" shall mean those OMP&R costs incurred by DWR irrespective of the  
2 amount of water delivered for the Contractor;

3 (h) "Operation and Maintenance" or "O&M" shall mean normal and  
4 reasonable care, control, operation, repair, replacement (other than capital  
5 replacement), and maintenance of SWP facilities;

6 (i) "Operations Manual" shall mean the manual developed by DWR  
7 and Reclamation setting forth procedures, which shall be consistent with this Contract,  
8 for working level communications including scheduling and accounting for power and  
9 water deliveries;

10 (j) "Reclamation" shall mean the United States Department of the  
11 Interior, Bureau of Reclamation;

12 (k) "Secretary" shall mean the Secretary of the Interior, a duly  
13 appointed successor, or an authorized representative acting pursuant to any authority of  
14 the Secretary and through any agency of the United States Department of the Interior;

15 (l) "SWP" shall mean the State Water Project as authorized by  
16 California Water Code sections 11100 et seq. and California Water Code sections  
17 12930 et seq.;

18 (m) "SWP Contractor(s)" shall mean those entities with a long-term  
19 water supply contract of the type included in DWR Bulletin 141;

20 (n) "SWP Facilities" shall mean that portion of the SWP (including  
21 DWR's portion of San Luis Unit joint-use facilities), necessary to convey CVP Water  
22 from the Delta to points of delivery along the California Aqueduct;

23 (o) "Transportation Minimum OMP&R Cost" and "Transportation

1 Variable OMP&R Costs” shall mean those costs incurred by DWR for OMP&R of SWP  
2 Facilities for delivery of water for the Contractor;

3 (p) "Variable Operation, Maintenance, & Replacement (OM&R) Costs"  
4 shall mean the costs incurred by DWR for OM&R of all SWP Facilities used in  
5 conveying CVP Water for the Contractor which costs are dependent upon and vary with  
6 the amount of water delivered for the Contractor;

7 (q) "Water Service Contract" shall mean the Existing Contract,  
8 including a that certain permanent repayment long-term renewal water service contract  
9 pursuant to Section 4011 of the WIIN Act, between Contractor and the United States for  
10 the supply of CVP Water, Contract No. 14-06-200 LTR;

11 (r) "Year" shall mean the period from and including March 1 of each  
12 Calendar Year through the last day of February of the following Calendar Year.

13 2. TERM OF CONTRACT

14 (a) This Contract shall be effective \_\_\_\_\_ 1, 20\_\_ through  
15 February 28, 2035. In the event the Contractor wishes to renew this Contract beyond  
16 February 28, 2035, DWR, Reclamation and the Contractor may renew this Contract to  
17 convey water for additional periods on terms mutually agreeable to the Parties.

18 (b) The Parties acknowledge that operation of SWP Facilities is not,  
19 and shall not be, subject to federal Reclamation Law.

20 3. WATER TO BE CONVEYED FOR THE CONTRACTOR

21 (a) DWR shall provide water conveyance service through SWP  
22 Facilities for the Contractor pursuant to this Contract and assumes no responsibility for  
23 providing a water supply which is to be made available for the Contractor by



1 Reclamation under its separate Water Service Contract.

2 (b) Reclamation may make CVP Water available in the Delta, through  
3 Federal Delta diversion and conveyance facilities, and/or from the Federal share of  
4 storage at San Luis Reservoir for the Contractor for conveyance by DWR. For CVP  
5 Water made available by Reclamation from Federal diversion and conveyance facilities  
6 and/or from the Federal share of storage at San Luis Reservoir for such conveyance,  
7 the point at which such water shall be made available for conveyance by DWR is O'Neill  
8 Forebay.

9 (c) Reclamation shall notify DWR of the proposed quantity, location  
10 and timing of CVP Water made available for the Contractor for conveyance by DWR  
11 pursuant to this Contract. Reclamation assumes no responsibility for such conveyance.

12 (d) When CVP Water is made available by Reclamation for the  
13 Contractor, DWR shall provide for the Contractor, subject to the availability of capacity  
14 as determined by DWR, conveyance of such CVP Water consistent with the following:

15 (1) Reclamation shall make water available for the Contractor  
16 as set forth in the Water Service Contract. Such deliveries for the Contractor shall be  
17 made at such times and rates of flow as Reclamation and DWR shall agree.

18 (2) DWR, in accordance with an approved delivery schedule,  
19 shall convey the amount of CVP Water for the Contractor; provided that such deliveries  
20 of CVP Water shall be made only in a manner which will not increase the cost of, or  
21 adversely affect, SWP operations and services to SWP Contractors. Such deliveries  
22 shall be made as follows:

23 (i) To Cross Valley Canal turnouts in Reach 12E or other

1 turnouts from the California Aqueduct in Reaches 2A through 12E;

2 (ii) To O'Neill Forebay to be stored by Reclamation in the  
3 Federal share of storage in San Luis Reservoir for later release and conveyance by  
4 DWR for the Contractor; or

5 (iii) To other points of delivery mutually agreed to in  
6 writing by DWR, Reclamation and the Contractor;

7 (3) The total amount of CVP Water made available to DWR for  
8 the Contractor by Reclamation shall include water to compensate DWR for water  
9 conveyance losses incurred in the conveyance of CVP Water for the Contractor. The  
10 amount of such losses are 2% from the Delta through Reach 3 or 3% from the Delta  
11 through Reach 12E of the CVP Water made available unless otherwise determined by  
12 DWR. DWR may adjust the percentage of losses if supported by DWR's technical  
13 analysis provided to the Parties. DWR's determination will remain consistent with the  
14 then current losses policy applied to other DWR conveyance agreements.

15 (4) CVP Water received by DWR for conveyance and possible  
16 storage in the Federal share of San Luis Reservoir for delivery to the Contractor will be  
17 commingled with waters of DWR which are pumped through facilities of the California  
18 Aqueduct and with other waters of both the United States and DWR in the joint-use  
19 facilities of the San Luis Unit.

20 (5) Upon request of Reclamation, DWR will allow the  
21 encroachment of CVP water stored by Reclamation for the Contractor in the State share  
22 of San Luis Reservoir provided that such encroachment shall be only in a manner which  
23 will not increase the cost of, or adversely affect, SWP operations and services to SWP

1 Contractors.

2 (6) Subject to the necessary arrangements, Reclamation shall  
3 transmit or cause to be transmitted, by exchange or otherwise, such quantities of power  
4 as shall be required by DWR to pump through Banks and DWR's share of Dos Amigos,  
5 the quantities of CVP Water pursuant to subdivision (b) of this Article.

6 (7) DWR shall furnish Reclamation with such information as  
7 Reclamation and DWR agree is needed regarding the timing and quantities of power  
8 required by DWR to pump CVP Water. Such information shall be exchanged between  
9 Reclamation and DWR in accordance with provisions that may be set forth in an  
10 Operations Manual.

11 (8) Reclamation and DWR may, under terms and conditions  
12 satisfactory to both, and in accordance with applicable law, exchange water and/or  
13 power necessary for delivery of CVP Water for the Contractor under terms of this  
14 Contract.

15 (e) Conveyance of CVP Water by DWR shall be subject to capacity  
16 available in SWP Facilities in excess of capacity determined by DWR to be needed for  
17 SWP operations or services to any SWP Contractor. Conveyance and/or storage for  
18 the Contractor may be curtailed prior to or subsequent to approval of the Contractor's  
19 schedule under Article 4 of this Contract, in the event DWR determines the delivery  
20 would interfere with the delivery of water to SWP Contractors or other SWP operations  
21 such as a State Drought Water Bank necessary to meet obligations of the SWP,  
22 including delivery of water to SWP storage or reregulation of stored water for delivery to  
23 SWP Contractors.

1 (f) For purposes of determining the available capacity under this  
2 Contract, the deliveries of CVP Water for the Contractor shall not be considered a  
3 "service to SWP Contractors," notwithstanding any arrangement the Contractor may  
4 have with a SWP Contractor.

5 (g) If DWR is precluded in whole or in part from conveying water under  
6 this Contract as a result of uncontrollable forces, DWR is relieved from the obligation to  
7 deliver the water to the extent it is reasonably unable to complete the obligation due to  
8 the uncontrollable force. Uncontrollable forces shall include, but are not limited to  
9 earthquakes, fires, tornadoes, floods and other natural or human caused disasters.

10 (h) DWR may temporarily discontinue or reduce the quantity of CVP  
11 Water to be delivered to the Contractor for the purpose of investigation, inspection,  
12 maintenance, repair or replacement of any SWP Facilities or any part thereof necessary  
13 for the delivery of CVP Water to the Contractor. To the extent reasonably practicable,  
14 DWR shall give the Contractor notice in advance of such temporary discontinuance or  
15 reduction, except in the case of emergency, in which case no notice need be given.  
16 DWR shall use its best efforts to avoid such discontinuances or reductions in such  
17 service, and upon resumption of service after such reduction or discontinuance, and if  
18 requested by the Contractor, DWR will, if capacity is available, deliver the quantity of  
19 CVP Water which otherwise would have been delivered in the absence of such  
20 discontinuance or reduction, but only to the extent such delivery can be made without  
21 adversely impacting SWP operations and deliveries to SWP Contractors. For CVP  
22 Water not delivered after a discontinuance or reduction, the Contractor shall be  
23 responsible for all costs as set forth in Article 9 of this Contract.

1 (i) Subject to the limitations provided herein, DWR shall make all  
2 reasonable efforts consistent with sound fiscal policies, and proper operating  
3 procedures to maintain necessary facilities and to deliver CVP Water to the Contractor  
4 in accordance with the provisions of this Contract in such a manner and at such times  
5 as such CVP Water is scheduled by the Contractor.

6 4. OPERATIONS MANUAL

7 DWR and Reclamation may develop an Operations Manual for use by DWR and  
8 Reclamation. DWR and Reclamation may update the Operations Manual from time to  
9 time without amendment of this Contract.

10 5. SCHEDULING CONVEYANCE OF WATER

11 (a) On or before each March 1, and at such other times as necessary,  
12 the Contractor shall submit to DWR and Reclamation a written schedule in a form  
13 satisfactory to DWR and Reclamation. The written schedule, at a minimum, shall show  
14 by month the quantities and expected point(s) of delivery of CVP Water to be conveyed  
15 by DWR for the Contractor pursuant to this Contract for the Year.

16 (b) If the delivery of the water would involve use of the Cross Valley  
17 Canal, the Contractor's requested schedule and any modifications thereto shall indicate  
18 concurrence from the Cross Valley Canal Operator.

19 (c) If DWR is unable to convey CVP Water in the quantities and times  
20 requested in the schedule, the Contractor may elect to receive such CVP Water at other  
21 times during such year as DWR determines, in consultation with the Contractor, that the  
22 water can be delivered without interference with SWP operations or services to SWP  
23 Contractors.

1 (d) Pumping of CVP Water for the Contractor at Banks and Dos  
2 Amigos shall be identified separately from other federal pumping at these plants.

3 (e) Pumping of CVP Water for the Contractor at Banks and DWR's  
4 share of Dos Amigos will normally be done during on-peak hours unless DWR  
5 determines that off-peak capacity is available that is not needed for SWP operations or  
6 services to SWP Contractors.

7 6. POINT OF DELIVERY AND EXCHANGES

8 (a) CVP Water scheduled and conveyed pursuant to this Contract shall  
9 be delivered for the Contractor at a point or points of delivery in Reaches 2A through  
10 16A or other points of delivery mutually agreed to in writing by Reclamation, DWR, and  
11 the Contractor.

12 (b) The Parties acknowledge that CVP Water shall be conveyed by  
13 DWR and delivered for the Contractor by direct delivery via the Cross Valley Canal  
14 and/or by exchange arrangements involving Arvin-Edison Water Storage District or  
15 others.

16 (c) DWR shall have no obligation to make exchange arrangements or  
17 be responsible for water transported in facilities that are not a part of the SWP.

18 7. MEASUREMENT OF WATER DELIVERED

19 DWR shall measure all water delivered for the Contractor from the California  
20 Aqueduct and shall keep and maintain accurate and complete records thereof.

21 8. RESPONSIBILITY FOR DELIVERY AND DISTRIBUTION OF WATER

22 (a) Neither DWR nor any of its officers, agents, or employees shall be  
23 liable for the control, carriage, handling, use, disposal, or distribution of water delivered

1 for the Contractor after such water has passed the delivery points established in Article  
2 6, nor for claim of damage of any nature whatsoever, including but not limited to  
3 property damage, personal injury or death, arising out of or connected with the control,  
4 carriage, handling, use, disposal or distribution of such water beyond said delivery  
5 structures; and the Contractor shall indemnify and hold harmless DWR and its officers,  
6 agents, and employees from any such damages or claims of damages, except for any  
7 damage or claim arising out of the sole negligence or willful misconduct of DWR, its  
8 officers, agents, employees, or assigns.

9 (b) Neither the Contractor nor any of its officers, agents, or employees  
10 shall be liable for the control, carriage, handling, use, disposal, or distribution of water  
11 being delivered by DWR before such water has passed the delivery points established  
12 in accordance with Article 6; nor for claim of damage of any nature whatsoever,  
13 including but not limited to property damage, personal injury or death, arising out of or  
14 connected with the control, carriage, handling, use, disposal, or distribution of such  
15 water before it has passed said delivery points;

16 (c) The United States shall not be responsible for the conveyance of  
17 CVP Water under this Contract, or the control, carriage, handling, use, disposal, or  
18 distribution of CVP Water made available for the Contractor beyond the Delta or, if  
19 stored in San Luis Reservoir, beyond O'Neill Forebay. The Contractor shall indemnify  
20 Reclamation, its officers, employees, agents, and assigns on account of damage or  
21 claim of damage of any nature whatsoever for which there is legal responsibility  
22 pursuant to this Contract.

23 9. RATES AND METHOD OF PAYMENT FOR CONVEYANCE AND OTHER

1 SERVICES BY DWR.

2 (a) The Contractor shall reimburse DWR for all costs incurred by DWR  
3 for providing services to the Contractor pursuant to this Contract regardless of whether  
4 DWR delivers any water to the Contractor.

5 (b) To the extent CVP Water is conveyed through SWP Facilities,  
6 payment of the costs of conveyance of water through the SWP Facilities shall be made  
7 by the Contractor directly to DWR. The charges and interest rates applicable upon  
8 execution of this Contract are set forth in Exhibit "A."

9 (c) Each year DWR shall revise Exhibit "A" and determine the charge  
10 per acre-foot for conveyance of water through SWP Facilities pursuant to this Contract  
11 as follows:

12 (1) When DWR provides conveyance directly from the Delta the unit  
13 conveyance charge shall equal the sum of the following, as determined by DWR:

14 (i) The equivalent unit transportation capital and Minimum  
15 OMP&R Costs for Reaches 1 through applicable reaches, excluding Reach 3A, of the  
16 California Aqueduct;

17 (ii) The portion of the Delta Water Rate for Reaches 1, 2A, 2B  
18 and 3 of the California Aqueduct;

19 (iii) The replacement component of the transportation Variable  
20 OM&R Costs for Banks and DWR's share of Dos Amigos;

21 (iv) A charge to offset direct fish losses associated with pumping  
22 at Banks, pursuant to the December 30, 1986, agreement between the California  
23 Department of Fish and Wildlife and DWR;



1 (v) Water System Revenue Bond Surcharge;  
2 (vi) Any components or other categories of charges pursuant to  
3 this Contract not known at the execution of this Contract, including, but not limited to,  
4 those that are identified in the annual Appendix B of DWR Bulletin 132; and

5 (vii) The incremental costs, if any, caused by the conveyance  
6 and delivery of CVP Water to the Contractor pursuant to this Contract which, unless  
7 included in the increased charges to the Contractor, would result in increased charges  
8 to the SWP Contractors or increased costs to DWR.

9 (2) When DWR provides conveyance directly from the federal share of  
10 storage at San Luis Reservoir, the unit conveyance charge shall equal the sum of the  
11 following, as determined by DWR:

12 (i) The equivalent unit transportation capital and Minimum  
13 OMP&R Costs for Reaches 3 through applicable reaches, excluding Reach 3A, of the  
14 California Aqueduct;

15 (ii) The portion of the Delta Water Rate for Reach 3 of the  
16 California Aqueduct;

17 (iii) The replacement component of the transportation Variable  
18 OM&R Costs for DWR's share of Dos Amigos;

19 (iv) Water System Revenue Bond Surcharge;

20 (v) Any components or other categories of charges pursuant to  
21 this Contract not known at the execution of this Contract, including, but not limited to,  
22 those that are identified in the annual Appendix B of DWR Bulletin 132; and

23 (vi) The incremental costs, if any, caused by the conveyance and

1 delivery of CVP Water to the Contractor pursuant to this Contract which, unless  
2 included in the increased charges to the Contractor, would result in increased charges  
3 to the SWP Contractors or increased costs to DWR.

4 (d) DWR shall invoice the Contractor monthly for all conveyance  
5 charges owing for the previous month. Payment by the Contractor to DWR shall be due  
6 thirty (30) days after the date of the invoice. Any payment not received within thirty (30)  
7 days after the date of the invoice shall be considered delinquent. Delinquent charges  
8 shall be calculated in accordance with this Contract: Provided, that no interest shall be  
9 charged to or be paid by the Contractor unless such delinquency continues for more  
10 than thirty (30) days in total.

11 (e) Prior to December 31 of each Calendar Year, DWR shall notify the  
12 Contractor in writing of the charges to be in effect during the following Calendar Year,  
13 and such notification shall revise Exhibit "A" of this Contract. At the same time DWR  
14 shall provide to the Contractor a copy of the then most recent version of Appendix B of  
15 DWR Bulletin 132, which is the basis for calculating the charges to the Contractor to be  
16 in effect during that Calendar Year.

17 (f) If the Contractor is unable, fails, or refuses to accept delivery of  
18 CVP Water conveyed by DWR in accordance with this Contract, such inability, failure,  
19 or refusal shall not relieve the Contractor of its obligations to pay DWR all associated  
20 costs.

21 (g) The Contractor shall pay DWR a monthly administrative charge  
22 specified in Exhibit "A" for each month in which DWR conveys CVP Water to the  
23 Contractor and for each month in which DWR invoices the Contractor for delinquent

1 charges.

2 (h) Pursuant to the "Contract Between United States Department of  
3 Energy Western Area Power Administration and State of California Department of  
4 Water Resources for California Independent System Operator Scheduling Coordinator  
5 Services for Joint-Use Facilities of the San Luis Unit and Certain DWR Pumping  
6 Facilities" (Contract # 12-SNR-01605), dated June 27, 2012, Western Area Power  
7 Administration (Western) agreed to pay DWR for Scheduling Coordinator (SC)  
8 California Independent System Operator (CAISO) charges and charges for SC-related  
9 services incurred by DWR, and attributable to DWR acting as SC for the federal share  
10 of the Joint-Use Facilities and for certain DWR owned or operated pumping facilities to  
11 the extent they are used to pump federal water by mutual agreement between DWR  
12 and Reclamation. The Parties to this Contract agree that Contract # 12-SNR-01605, as  
13 now existing and as amended from time to time, applies to this Contract. If Western  
14 fails to pay DWR for charges incurred during the term of Contract #12-SNR-01605,  
15 DWR reserves the right to temporarily suspend conveyance under this Contract after  
16 providing Reclamation and the Contractor with 30 days written notice.

17 (1) Prior to the expiration of Contract # 12-SNR-01605,  
18 Reclamation and DWR will meet and confer with Western to discuss potential renewal.  
19 If Contract #12-SNR-01605 is renewed or a new contract is entered into to pay for the  
20 SC CAISO charges and charges for SC related services, such contract will be the basis  
21 for paying these charges under this Contract.

22 (2) If Reclamation, DWR, and Western are unable to reach any  
23 such agreement on the payment of SC CAISO charges and charges for SC-related

1 services, DWR reserves the right to suspend conveyance under this Contract after  
2 providing Reclamation and the Contractor with 30 days written notice. In the alternative,  
3 the Contractor and DWR may reach agreement on the Contractor's payment obligations  
4 for the SC CAISO charges and charges for SC-related services in order to avoid  
5 interruption of conveyance.

6 (i) The amount of any overpayment by the Contractor shall be applied  
7 first to any balance due by the Contractor to DWR. Any amount of overpayment  
8 remaining shall, at the option of Contractor, be refunded to the Contractor or credited  
9 upon amounts to become due to DWR from Contractor in the following months. With  
10 respect to overpayment, such adjustment shall constitute the sole remedy of the  
11 Contractor.

12 (j) In the event that the Contractor contests the accuracy of any  
13 invoice submitted to it by DWR pursuant to this Contract it shall give DWR notice  
14 thereof at least ten (10) days prior to the day upon which payment of the stated amount  
15 due. To the extent that DWR finds that the Contractor's claims regarding the invoice  
16 are correct, it shall revise the invoice accordingly, and the Contractor shall make  
17 payment of the revised amounts on or before the due date. To the extent that DWR  
18 does not find the Contractor's claims correct, or where time is not available for review of  
19 such claims for correctness prior to due date, the Contractor shall make payment of the  
20 stated amounts on or before the due date, but may make the contested part of such  
21 payment under protest and seek to recover the amount from DWR.

22 (k) If in any year, by reason of errors in computation or other causes,  
23 there is an overpayment or underpayment to DWR by the Contractor of its charges, the

1 amount of such overpayment or underpayment shall be credited or debited, as the case  
2 may be, to the Contractor's account for the next succeeding year and DWR shall notify  
3 the Contractor in writing.

4 10. ASSIGNMENT OF CONTRACT

5 Without the prior written consent of DWR, Reclamation, and the Contractor, this  
6 Contract is not assignable in whole or in part.

7 11. MODIFICATION OF CONTRACT

8 No modification of the terms of this Contract shall be valid unless made in writing  
9 and signed by the Parties to this Contract.

10 12. PARAGRAPH HEADINGS

11 The paragraph headings of this Contract are for the convenience of the Parties  
12 and shall not be considered to limit, expand, or define the contents of the respective  
13 paragraphs.

14 13. OPINIONS AND DETERMINATIONS

15 Where the terms of this Contract provide for actions to be based upon the  
16 opinion or determination of any party to this Contract, said terms shall not be construed  
17 as permitting such action to be predicated upon arbitrary, capricious, or unreasonable  
18 opinions or determinations. As provided in Article 14, the Parties expressly reserve the  
19 right to seek relief from and appropriate adjustment for any such arbitrary, capricious or  
20 unreasonable opinion or determination. Each opinion or determination by any party to  
21 this Contract shall be provided in a timely manner.

22 14. DISPUTE RESOLUTION

23 In the event of a dispute regarding interpretation or implementation of this

1 Contract, a party shall provide written notice of the dispute to the other Parties. The  
2 Parties shall endeavor to resolve the dispute by meeting within 30 days of the written  
3 notice, or at a later date by mutual written agreement by the Parties. The representative  
4 for each party to this meeting shall be an individual authorized by that party to resolve  
5 the Contract interpretation or implementation issues. If the dispute is unresolved  
6 following the meeting, the authorized signatory of the Contractor or its designee, the  
7 Director of DWR and the Regional Director of Reclamation or their designees shall meet  
8 within 30 days (Directors' meeting), or at a later date by mutual written agreement of the  
9 Parties, after the initial meeting to resolve the dispute. If the dispute still remains  
10 unresolved, the Parties shall use the services of a mutually acceptable consultant in an  
11 effort to resolve the dispute. The Parties shall share the fees and expenses of the  
12 consultant equally. If a consultant cannot be agreed upon, or if the consultant's  
13 recommendations are not acceptable to the Parties, or 90 days after the Directors'  
14 meeting, and unless the Parties otherwise agree, the matter may be resolved by  
15 litigation, and any party may at its option pursue any available legal remedy, including  
16 but not limited to, injunctive and other equitable relief; provided that this process shall  
17 not be required where a delay in commencing an action would prejudice the interests of  
18 the party that intends to file suit. Except as specifically provided, nothing herein is  
19 intended to waive or abridge any right or remedy that any party may have.

20 15. NOTICES

21 Any notice, demand or request authorized by this Contract shall be in writing and  
22 either hand-delivered or sent by United States first class mail, postage prepaid, or by  
23 facsimile or electronic mail followed by written notice sent by U.S. mail. Unless and until  
24 formally notified otherwise, notices shall be sent to the following addresses:

1  
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17

Director of Water Resources  
P.O. Box 942836  
Sacramento, CA 94236-0001

Contractor (Full name of District)  
Address  
City, State, & ZIP Code

Regional Director, Mid-Pacific Region  
U.S. Department of the Interior Bureau of Reclamation  
Address  
City, State, & ZIP Code

16. SIGNATURE CLAUSE

The signatories represent that they have been appropriately authorized to enter into this Contract on behalf of the party for whom they sign. A copy of the resolution authorizing the Contractor to enter into this Contract shall be delivered to DWR before implementation of this Contract.







1                    PROPOSED LONG-TERM CONVEYANCE CONTRACT AMONG  
2                    THE DEPARTMENT OF WATER RESOURCES OF THE STATE OF CALIFORNIA,  
3                    THE UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF  
4                    RECLAMATION,  
5                    AND INSERT CONTRACTOR NAME HERE  
6

7                    THIS CONTRACT is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, in  
8                    pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or  
9                    supplementary thereto, including, but not limited to, the Acts of August 26, 1937 (50  
10                    Stat. 844), as amended and supplemented, August 4, 1939 (53 Stat. 1187), as  
11                    amended and supplemented, July 2, 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68),  
12                    October 12, 1982 (96 Stat. 1263), October 27, 1986 (100 Stat. 3050), as amended, Title  
13                    XXXIV of the Act of October 30, 1992 (106 Stat. 4706), as amended, and the Water  
14                    Infrastructure Improvements for the Nation Act (Public Law (Pub. L) 114-322, 130 Stat.  
15                    1628), Section 4011 (a-d) and (f) ("WIIN Act"), all collectively hereinafter referred to as  
16                    Federal Reclamation law and pursuant to the California Central Valley Project Act [Part  
17                    3, Division 6 (commencing at Section 11100) of the California Water Code], the  
18                    California Water Resources Development Bond Act [Chapter 8, Part 6, Division 6  
19                    (commencing at Section 12930) of the California Water Code,] and all acts of the  
20                    California legislature amendatory thereto or supplementary thereof, and California  
21                    Water Code sections 1810 through 1814, among THE DEPARTMENT OF WATER  
22                    RESOURCES OF THE STATE OF CALIFORNIA, hereinafter referred to as DWR, THE  
23                    UNITED STATES OF AMERICA, hereinafter referred to as the United States, and  
24                    INSERT CONTRACTOR NAME HERE, hereinafter referred to as the Contractor, a public  
25                    agency of the State of California, duly organized, existing, and acting pursuant to the  
26                    laws thereof, with its principal place of business in California; collectively referred to as

1 Parties.

2 EXPLANATORY RECITALS

3 A. WHEREAS, the United States has constructed and is operating the  
4 Central Valley Project, California, (CVP) for diversion, storage, carriage, distribution and  
5 beneficial use, for flood control, irrigation, municipal, domestic, industrial, fish and  
6 wildlife mitigation, protection and restoration, generation and distribution of electric  
7 energy, salinity control, navigation and other beneficial uses, of waters of the  
8 Sacramento River, the American River, the Trinity River, and the San Joaquin River and  
9 their tributaries; and

10 B. WHEREAS, the United States constructed the CVP facilities, which will be  
11 used in part for furnishing the water which DWR will convey to the Contractor pursuant  
12 to the terms of this Contract; and

13 C. WHEREAS, CVP Water may be made available to the Contractor in the  
14 Sacramento-San Joaquin River Delta (Delta) and/or from the Friant Division of the CVP  
15 and delivered to the Contractor through appropriate federal, state and/or local facilities;  
16 and

17 D. WHEREAS, DWR is engaged in the operation of the State Water  
18 Resources Development System pursuant to the laws of the State of California involving  
19 the development, transportation, and delivery of water supplies to public agencies  
20 throughout the State of California; and

21 E. WHEREAS, the Cross Valley Canal, connecting the California Aqueduct  
22 and the Friant-Kern Canal in Kern County, has been constructed by the Contractor and  
23 others at no cost to either the United States or DWR and is currently operated by Kern

1 County Water Agency; and

2 F. WHEREAS, the Contractor has the right to use the Cross Valley Canal for  
3 conveyance of the CVP Water furnished hereunder; and

4 G. WHEREAS, the rights to CVP Water were acquired by the United States  
5 pursuant to California law for operation of the CVP; and

6 H. WHEREAS, the Contractor, DWR and the United States entered into  
7 Contract No. 14-06-200-**LTR**, as amended, which established terms for the delivery to  
8 the Contractor of CVP Water from November 12, 1975, through February 29, 1996; and

9 I. WHEREAS, the Contractor, DWR and the United States have pursuant to  
10 subsection 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA),  
11 subsequently entered into interim renewal contract(s) identified as Contract No(s). 14-  
12 06-200-**LTR** -IR1, IR2, IR3, IR4, IR5. IR6, IR7, IR8, IR9, IR10, IR11, IR12, IR13, IR14,  
13 IR15, IR16, IR17 and IR18 the current of which is hereinafter referred to as the Existing  
14 Contract, which provides for the continued water service to the Contractor from March  
15 1, 2020, through February 28, 2022; and

16 J. WHEREAS, the Contractor has requested the conversion of the Existing  
17 Contract No.  to a repayment contract pursuant to Section 4011(a)(1) of the WIIN Act,  
18 pursuant to the terms of said contract, Federal Reclamation law, and the laws of the  
19 State of California, for water service from the CVP; and

20 K. WHEREAS, to provide for the conversion of the Existing Contract No.  
21  to a repayment contract, the United States and Contractor shall, concurrent  
22 with the execution of this Contract, enter into a repayment contract upon completion of  
23 necessary requirements of law for execution of such contract; and

1 L. WHEREAS, the United States and DWR have determined that the  
2 Contractor has fulfilled all of its obligations under the Existing Contract; and

3 M. WHEREAS, the Contractor has entered into an agreement entitled  
4 "Agreement Regarding California Environmental Quality Review for Cross Valley Canal  
5 Contractors' Contracts for Renewal of Central Valley Project Water Supply and  
6 Conveyance Through State Facilities" by and among the Contractor, other Cross Valley  
7 Canal contractors similarly situated to Contractor, and DWR. Pursuant to that  
8 agreement, Lower Tule Irrigation District, as Lead Agency, is preparing an  
9 Environmental Impact Report (EIR) pursuant to the California Environmental Quality Act  
10 (CEQA) on behalf of all CVC contractors to provide CEQA compliance for the execution  
11 of this Contract; and

12 N. WHEREAS, DWR as a responsible agency has reviewed and considered  
13 the information in the EIR prepared by the Lead Agency and all other appropriate  
14 environmental documentation prior to entering into this Contract; and

15 O. WHEREAS, the parties intend by this Contract to continue a cooperative  
16 relationship in order to achieve their mutual goals; and

17 P. WHEREAS, the United States and the Contractor desire to contract with  
18 DWR for conveyance of CVP Water through the facilities of the SWP under an  
19 arrangement wherein the United States will furnish the necessary power for pumping  
20 such water through DWR's Harvey O. Banks (Banks) Pumping Plant and Dos Amigos  
21 Pumping Plant (Dos Amigos) so that DWR can provide Contractor with the conveyance  
22 of CVP Water under the terms of this Contract; and

23 Q. WHEREAS, DWR desires to place its conveyance services into a contract

1 separate from the contract providing for Reclamation's water service obligations; and

2 R. WHEREAS, DWR is willing to convey such water through SWP Facilities  
3 subject to the needs for SWP project operations, services to SWP Contractors, the  
4 availability of transportation capacity and payment of costs as herein provided; and

5 S. WHEREAS, the Existing Contract states that DWR shall negotiate in good  
6 faith with the Contractor and the United States in a process providing for the execution  
7 of a long-term renewal contract provided that no such contract shall obligate DWR  
8 beyond February 28, 2035, without further negotiations; and

9 T. WHEREAS, the United States, DWR, and the Contractor are willing to  
10 enter into this long-term conveyance contract on the terms and conditions set forth  
11 below.

## 12 AGREEMENT

13 NOW, THEREFORE, in consideration of the mutual and dependent covenants  
14 herein contained, it is hereby mutually agreed by the Parties hereto as follows:

### 15 1. DEFINITIONS

16 When used herein unless otherwise distinctly expressed, or manifestly  
17 incompatible with the intent of the Parties as expressed in this Contract, the term:

18 (a) "Calendar Year" shall mean the period January 1 through  
19 December 31, both dates inclusive;

20 (b) "Cross Valley Canal" shall mean the water conveyance and related  
21 works in Kern County constructed by the Contractor and others to deliver water from the  
22 SWP Facilities, which canal currently is operated by Kern County Water Agency;

23 (c) "Cross Valley Canal Operator" shall mean the entity which operates

1 the Cross Valley Canal;

2 (d) "CVP" shall mean the Central Valley Project owned by the United  
3 States and managed by the Department of the Interior, Bureau of Reclamation;

4 (e) "CVP Water" shall mean all water that is developed, diverted,  
5 stored, or delivered by Reclamation in accordance with the statutes authorizing the CVP  
6 and in accordance with the terms and conditions of water rights acquired pursuant to  
7 California law made available to the Contractor pursuant to the Water Service Contract;

8 (f) "CVPIA" shall mean the Central Valley Project Improvement Act,  
9 Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

10 (g) "Minimum Operation, Maintenance, Power, & Replacement  
11 (OMP&R) Costs" shall mean those OMP&R costs incurred by DWR irrespective of the  
12 amount of water delivered for the Contractor;

13 (h) "Operation and Maintenance" or "O&M" shall mean normal and  
14 reasonable care, control, operation, repair, replacement (other than capital  
15 replacement), and maintenance of SWP facilities;

16 (i) "Operations Manual" shall mean the manual developed by DWR  
17 and Reclamation setting forth procedures, which shall be consistent with this Contract,  
18 for working level communications including scheduling and accounting for power and  
19 water deliveries;

20 (j) "Reclamation" shall mean the United States Department of the  
21 Interior, Bureau of Reclamation;

22 (k) "Secretary" shall mean the Secretary of the Interior, a duly  
23 appointed successor, or an authorized representative acting pursuant to any authority of

1 the Secretary and through any agency of the United States Department of the Interior;

2 (l) "SWP" shall mean the State Water Project as authorized by  
3 California Water Code sections 11100 et seq. and California Water Code sections  
4 12930 et seq.;

5 (m) "SWP Contractor(s)" shall mean those entities with a long-term  
6 water supply contract of the type included in DWR Bulletin 141;

7 (n) "SWP Facilities" shall mean that portion of the SWP (including  
8 DWR's portion of San Luis Unit joint-use facilities), necessary to convey CVP Water  
9 from the Delta to points of delivery along the California Aqueduct;

10 (o) "Transportation Minimum OMP&R Cost" and "Transportation  
11 Variable OMP&R Costs" shall mean those costs incurred by DWR for OMP&R of SWP  
12 Facilities for delivery of water for the Contractor;

13 (p) "Variable Operation, Maintenance, & Replacement (OM&R) Costs"  
14 shall mean the costs incurred by DWR for OM&R of all SWP Facilities used in  
15 conveying CVP Water for the Contractor which costs are dependent upon and vary with  
16 the amount of water delivered for the Contractor;

17 (q) "Water Service Contract" shall mean the Existing Contract,  
18 including a repayment contract pursuant to Section 4011 of the WIIN Act, between  
19 Contractor and the United States for the supply of CVP Water;

20 (r) "Year" shall mean the period from and including March 1 of each  
21 Calendar Year through the last day of February of the following Calendar Year.

22 2. TERM OF CONTRACT

23 (a) This Contract shall be effective \_\_\_\_\_ 1, 20\_\_ through



1 February 28, 2035. In the event the Contractor wishes to renew this Contract beyond  
2 February 28, 2035, DWR, Reclamation and the Contractor may renew this Contract to  
3 convey water for additional periods on terms mutually agreeable to the Parties.

4 (b) The Parties acknowledge that operation of SWP Facilities is not,  
5 and shall not be, subject to federal Reclamation Law.

6 3. WATER TO BE CONVEYED FOR THE CONTRACTOR

7 (a) DWR shall provide water conveyance service through SWP  
8 Facilities for the Contractor pursuant to this Contract and assumes no responsibility for  
9 providing a water supply which is to be made available for the Contractor by  
10 Reclamation under its separate Water Service Contract.

11 (b) Reclamation may make CVP Water available in the Delta, through  
12 Federal Delta diversion and conveyance facilities, and/or from the Federal share of  
13 storage at San Luis Reservoir for the Contractor for conveyance by DWR. For CVP  
14 Water made available by Reclamation from Federal diversion and conveyance facilities  
15 and/or from the Federal share of storage at San Luis Reservoir for such conveyance,  
16 the point at which such water shall be made available for conveyance by DWR is O'Neill  
17 Forebay.

18 (c) Reclamation shall notify DWR of the proposed quantity, location  
19 and timing of CVP Water made available for the Contractor for conveyance by DWR  
20 pursuant to this Contract. Reclamation assumes no responsibility for such conveyance.

21 (d) When CVP Water is made available by Reclamation for the  
22 Contractor, DWR shall provide for the Contractor, subject to the availability of capacity  
23 as determined by DWR, conveyance of such CVP Water consistent with the following:

1 (1) Reclamation shall make water available for the Contractor  
2 as set forth in the Water Service Contract. Such deliveries for the Contractor shall be  
3 made at such times and rates of flow as Reclamation and DWR shall agree.

4 (2) DWR, in accordance with an approved delivery schedule,  
5 shall convey the amount of CVP Water for the Contractor; provided that such deliveries  
6 of CVP Water shall be made only in a manner which will not increase the cost of, or  
7 adversely affect, SWP operations and services to SWP Contractors. Such deliveries  
8 shall be made as follows:

9 (i) To Cross Valley Canal turnouts in Reach 12E or other  
10 turnouts from the California Aqueduct in Reaches 2A through 12E;

11 (ii) To O'Neill Forebay to be stored by Reclamation in the  
12 Federal share of storage in San Luis Reservoir for later release and conveyance by  
13 DWR for the Contractor; or

14 (iii) To other points of delivery mutually agreed to in  
15 writing by DWR, Reclamation and the Contractor;

16 (3) The total amount of CVP Water made available to DWR for  
17 the Contractor by Reclamation shall include water to compensate DWR for water  
18 conveyance losses incurred in the conveyance of CVP Water for the Contractor. The  
19 amount of such losses are 2% from the Delta through Reach 3 or 3% from the Delta  
20 through Reach 12E of the CVP Water made available unless otherwise determined by  
21 DWR. DWR may adjust the percentage of losses if supported by DWR's technical  
22 analysis provided to the Parties. DWR's determination will remain consistent with the  
23 then current losses policy applied to other DWR conveyance agreements.

1 (4) CVP Water received by DWR for conveyance and possible  
2 storage in the Federal share of San Luis Reservoir for delivery to the Contractor will be  
3 commingled with waters of DWR which are pumped through facilities of the California  
4 Aqueduct and with other waters of both the United States and DWR in the joint-use  
5 facilities of the San Luis Unit.

6 (5) Upon request of Reclamation, DWR will allow the  
7 encroachment of CVP water stored by Reclamation for the Contractor in the State share  
8 of San Luis Reservoir provided that such encroachment shall be only in a manner which  
9 will not increase the cost of, or adversely affect, SWP operations and services to SWP  
10 Contractors.

11 (6) Subject to the necessary arrangements, Reclamation shall  
12 transmit or cause to be transmitted, by exchange or otherwise, such quantities of power  
13 as shall be required by DWR to pump through Banks and DWR's share of Dos Amigos,  
14 the quantities of CVP Water pursuant to subdivision (b) of this Article.

15 (7) DWR shall furnish Reclamation with such information as  
16 Reclamation and DWR agree is needed regarding the timing and quantities of power  
17 required by DWR to pump CVP Water. Such information shall be exchanged between  
18 Reclamation and DWR in accordance with provisions that may be set forth in an  
19 Operations Manual.

20 (8) Reclamation and DWR may, under terms and conditions  
21 satisfactory to both, and in accordance with applicable law, exchange water and/or  
22 power necessary for delivery of CVP Water for the Contractor under terms of this  
23 Contract.

1 (e) Conveyance of CVP Water by DWR shall be subject to capacity  
2 available in SWP Facilities in excess of capacity determined by DWR to be needed for  
3 SWP operations or services to any SWP Contractor. Conveyance and/or storage for  
4 the Contractor may be curtailed prior to or subsequent to approval of the Contractor's  
5 schedule under Article 4 of this Contract, in the event DWR determines the delivery  
6 would interfere with the delivery of water to SWP Contractors or other SWP operations  
7 such as a State Drought Water Bank necessary to meet obligations of the SWP,  
8 including delivery of water to SWP storage or reregulation of stored water for delivery to  
9 SWP Contractors.

10 (f) For purposes of determining the available capacity under this  
11 Contract, the deliveries of CVP Water for the Contractor shall not be considered a  
12 "service to SWP Contractors," notwithstanding any arrangement the Contractor may  
13 have with a SWP Contractor.

14 (g) If DWR is precluded in whole or in part from conveying water under  
15 this Contract as a result of uncontrollable forces, DWR is relieved from the obligation to  
16 deliver the water to the extent it is reasonably unable to complete the obligation due to  
17 the uncontrollable force. Uncontrollable forces shall include, but are not limited to  
18 earthquakes, fires, tornadoes, floods and other natural or human caused disasters.

19 (h) DWR may temporarily discontinue or reduce the quantity of CVP  
20 Water to be delivered to the Contractor for the purpose of investigation, inspection,  
21 maintenance, repair or replacement of any SWP Facilities or any part thereof necessary  
22 for the delivery of CVP Water to the Contractor. To the extent reasonably practicable,  
23 DWR shall give the Contractor notice in advance of such temporary discontinuance or

1 reduction, except in the case of emergency, in which case no notice need be given.  
2 DWR shall use its best efforts to avoid such discontinuances or reductions in such  
3 service, and upon resumption of service after such reduction or discontinuance, and if  
4 requested by the Contractor, DWR will, if capacity is available, deliver the quantity of  
5 CVP Water which otherwise would have been delivered in the absence of such  
6 discontinuance or reduction, but only to the extent such delivery can be made without  
7 adversely impacting SWP operations and deliveries to SWP Contractors. For CVP  
8 Water not delivered after a discontinuance or reduction, the Contractor shall be  
9 responsible for all costs as set forth in Article 9 of this Contract.

10 (i) Subject to the limitations provided herein, DWR shall make all  
11 reasonable efforts consistent with sound fiscal policies, and proper operating  
12 procedures to maintain necessary facilities and to deliver CVP Water to the Contractor  
13 in accordance with the provisions of this Contract in such a manner and at such times  
14 as such CVP Water is scheduled by the Contractor.

#### 15 4. OPERATIONS MANUAL

16 DWR and Reclamation may develop an Operations Manual for use by DWR and  
17 Reclamation. DWR and Reclamation may update the Operations Manual from time to  
18 time without amendment of this Contract.

#### 19 5. SCHEDULING CONVEYANCE OF WATER

20 (a) On or before each March 1, and at such other times as necessary,  
21 the Contractor shall submit to DWR and Reclamation a written schedule in a form  
22 satisfactory to DWR and Reclamation. The written schedule, at a minimum, shall show  
23 by month the quantities and expected point(s) of delivery of CVP Water to be conveyed

1 by DWR for the Contractor pursuant to this Contract for the Year.

2 (b) If the delivery of the water would involve use of the Cross Valley  
3 Canal, the Contractor's requested schedule and any modifications thereto shall indicate  
4 concurrence from the Cross Valley Canal Operator.

5 (c) If DWR is unable to convey CVP Water in the quantities and times  
6 requested in the schedule, the Contractor may elect to receive such CVP Water at other  
7 times during such year as DWR determines, in consultation with the Contractor, that the  
8 water can be delivered without interference with SWP operations or services to SWP  
9 Contractors.

10 (d) Pumping of CVP Water for the Contractor at Banks and Dos  
11 Amigos shall be identified separately from other federal pumping at these plants.

12 (e) Pumping of CVP Water for the Contractor at Banks and DWR's  
13 share of Dos Amigos will normally be done during on-peak hours unless DWR  
14 determines that off-peak capacity is available that is not needed for SWP operations or  
15 services to SWP Contractors.

## 16 6. POINT OF DELIVERY AND EXCHANGES

17 (a) CVP Water scheduled and conveyed pursuant to this Contract shall  
18 be delivered for the Contractor at a point or points of delivery in Reaches 2A through  
19 16A or other points of delivery mutually agreed to in writing by Reclamation, DWR, and  
20 the Contractor.

21 (b) The Parties acknowledge that CVP Water shall be conveyed by  
22 DWR and delivered for the Contractor by direct delivery via the Cross Valley Canal  
23 and/or by exchange arrangements involving Arvin-Edison Water Storage District or

1 others.

2 (c) DWR shall have no obligation to make exchange arrangements or  
3 be responsible for water transported in facilities that are not a part of the SWP.

4 7. MEASUREMENT OF WATER DELIVERED

5 DWR shall measure all water delivered for the Contractor from the California  
6 Aqueduct and shall keep and maintain accurate and complete records thereof.

7 8. RESPONSIBILITY FOR DELIVERY AND DISTRIBUTION OF WATER

8 (a) Neither DWR nor any of its officers, agents, or employees shall be  
9 liable for the control, carriage, handling, use, disposal, or distribution of water delivered  
10 for the Contractor after such water has passed the delivery points established in Article  
11 6, nor for claim of damage of any nature whatsoever, including but not limited to  
12 property damage, personal injury or death, arising out of or connected with the control,  
13 carriage, handling, use, disposal or distribution of such water beyond said delivery  
14 structures; and the Contractor shall indemnify and hold harmless DWR and its officers,  
15 agents, and employees from any such damages or claims of damages, except for any  
16 damage or claim arising out of the sole negligence or willful misconduct of DWR, its  
17 officers, agents, employees, or assigns.

18 (b) Neither the Contractor nor any of its officers, agents, or employees  
19 shall be liable for the control, carriage, handling, use, disposal, or distribution of water  
20 being delivered by DWR before such water has passed the delivery points established  
21 in accordance with Article 6; nor for claim of damage of any nature whatsoever,  
22 including but not limited to property damage, personal injury or death, arising out of or  
23 connected with the control, carriage, handling, use, disposal, or distribution of such

1 water before it has passed said delivery points;

2 (c) The United States shall not be responsible for the conveyance of  
3 CVP Water under this Contract, or the control, carriage, handling, use, disposal, or  
4 distribution of CVP Water made available for the Contractor beyond the Delta or, if  
5 stored in San Luis Reservoir, beyond O'Neill Forebay. The Contractor shall indemnify  
6 Reclamation, its officers, employees, agents, and assigns on account of damage or  
7 claim of damage of any nature whatsoever for which there is legal responsibility  
8 pursuant to this Contract.

9 9. RATES AND METHOD OF PAYMENT FOR CONVEYANCE AND OTHER  
10 SERVICES BY DWR.

11 (a) The Contractor shall reimburse DWR for all costs incurred by DWR  
12 for providing services to the Contractor pursuant to this Contract regardless of whether  
13 DWR delivers any water to the Contractor.

14 (b) To the extent CVP Water is conveyed through SWP Facilities,  
15 payment of the costs of conveyance of water through the SWP Facilities shall be made  
16 by the Contractor directly to DWR. The charges and interest rates applicable upon  
17 execution of this Contract are set forth in Exhibit "A."

18 (c) Each year DWR shall revise Exhibit "A" and determine the charge  
19 per acre-foot for conveyance of water through SWP Facilities pursuant to this Contract  
20 as follows:

21 (1) When DWR provides conveyance directly from the Delta the unit  
22 conveyance charge shall equal the sum of the following, as determined by DWR:

23 (i) The equivalent unit transportation capital and Minimum



1 OMP&R Costs for Reaches 1 through applicable reaches, excluding Reach 3A, of the  
2 California Aqueduct;

3 (ii) The portion of the Delta Water Rate for Reaches 1, 2A, 2B  
4 and 3 of the California Aqueduct;

5 (iii) The replacement component of the transportation Variable  
6 OM&R Costs for Banks and DWR's share of Dos Amigos;

7 (iv) A charge to offset direct fish losses associated with pumping  
8 at Banks, pursuant to the December 30, 1986, agreement between the California  
9 Department of Fish and Wildlife and DWR;

10 (v) Water System Revenue Bond Surcharge;

11 (vi) Any components or other categories of charges pursuant to  
12 this Contract not known at the execution of this Contract, including, but not limited to,  
13 those that are identified in the annual Appendix B of DWR Bulletin 132; and

14 (vii) The incremental costs, if any, caused by the conveyance  
15 and delivery of CVP Water to the Contractor pursuant to this Contract which, unless  
16 included in the increased charges to the Contractor, would result in increased charges  
17 to the SWP Contractors or increased costs to DWR.

18 (2) When DWR provides conveyance directly from the federal share of  
19 storage at San Luis Reservoir, the unit conveyance charge shall equal the sum of the  
20 following, as determined by DWR:

21 (i) The equivalent unit transportation capital and Minimum  
22 OMP&R Costs for Reaches 3 through applicable reaches, excluding Reach 3A, of the  
23 California Aqueduct;

1 (ii) The portion of the Delta Water Rate for Reach 3 of the  
2 California Aqueduct;

3 (iii) The replacement component of the transportation Variable  
4 OM&R Costs for DWR's share of Dos Amigos;

5 (iv) Water System Revenue Bond Surcharge;

6 (v) Any components or other categories of charges pursuant to  
7 this Contract not known at the execution of this Contract, including, but not limited to,  
8 those that are identified in the annual Appendix B of DWR Bulletin 132; and

9 (vi) The incremental costs, if any, caused by the conveyance and  
10 delivery of CVP Water to the Contractor pursuant to this Contract which, unless  
11 included in the increased charges to the Contractor, would result in increased charges  
12 to the SWP Contractors or increased costs to DWR.

13 (d) DWR shall invoice the Contractor monthly for all conveyance  
14 charges owing for the previous month. Payment by the Contractor to DWR shall be due  
15 thirty (30) days after the date of the invoice. Any payment not received within thirty (30)  
16 days after the date of the invoice shall be considered delinquent. Delinquent charges  
17 shall be calculated in accordance with this Contract: Provided, that no interest shall be  
18 charged to or be paid by the Contractor unless such delinquency continues for more  
19 than thirty (30) days in total.

20 (e) Prior to December 31 of each Calendar Year, DWR shall notify the  
21 Contractor in writing of the charges to be in effect during the following Calendar Year,  
22 and such notification shall revise Exhibit "A" of this Contract. At the same time DWR  
23 shall provide to the Contractor a copy of the then most recent version of Appendix B of

1 DWR Bulletin 132, which is the basis for calculating the charges to the Contractor to be  
2 in effect during that Calendar Year.

3 (f) If the Contractor is unable, fails, or refuses to accept delivery of  
4 CVP Water conveyed by DWR in accordance with this Contract, such inability, failure,  
5 or refusal shall not relieve the Contractor of its obligations to pay DWR all associated  
6 costs.

7 (g) The Contractor shall pay DWR a monthly administrative charge  
8 specified in Exhibit "A" for each month in which DWR conveys CVP Water to the  
9 Contractor and for each month in which DWR invoices the Contractor for delinquent  
10 charges.

11 (h) Pursuant to the "Contract Between United States Department of  
12 Energy Western Area Power Administration and State of California Department of  
13 Water Resources for California Independent System Operator Scheduling Coordinator  
14 Services for Joint-Use Facilities of the San Luis Unit and Certain DWR Pumping  
15 Facilities" (Contract # 12-SNR-01605), dated June 27, 2012, Western Area Power  
16 Administration (Western) agreed to pay DWR for Scheduling Coordinator (SC)  
17 California Independent System Operator (CAISO) charges and charges for SC-related  
18 services incurred by DWR, and attributable to DWR acting as SC for the federal share  
19 of the Joint-Use Facilities and for certain DWR owned or operated pumping facilities to  
20 the extent they are used to pump federal water by mutual agreement between DWR  
21 and Reclamation. The Parties to this Contract agree that Contract # 12-SNR-01605, as  
22 now existing and as amended from time to time, applies to this Contract. If Western  
23 fails to pay DWR for charges incurred during the term of Contract #12-SNR-01605,

1 DWR reserves the right to temporarily suspend conveyance under this Contract after  
2 providing Reclamation and the Contractor with 30 days written notice.

3 (1) Prior to the expiration of Contract # 12-SNR-01605,  
4 Reclamation and DWR will meet and confer with Western to discuss potential renewal.  
5 If Contract #12-SNR-01605 is renewed or a new contract is entered into to pay for the  
6 SC CAISO charges and charges for SC related services, such contract will be the basis  
7 for paying these charges under this Contract.

8 (2) If Reclamation, DWR, and Western are unable to reach any  
9 such agreement on the payment of SC CAISO charges and charges for SC-related  
10 services, DWR reserves the right to suspend conveyance under this Contract after  
11 providing Reclamation and the Contractor with 30 days written notice. In the alternative,  
12 the Contractor and DWR may reach agreement on the Contractor's payment obligations  
13 for the SC CAISO charges and charges for SC-related services in order to avoid  
14 interruption of conveyance.

15 (i) The amount of any overpayment by the Contractor shall be applied  
16 first to any balance due by the Contractor to DWR. Any amount of overpayment  
17 remaining shall, at the option of Contractor, be refunded to the Contractor or credited  
18 upon amounts to become due to DWR from Contractor in the following months. With  
19 respect to overpayment, such adjustment shall constitute the sole remedy of the  
20 Contractor.

21 (j) In the event that the Contractor contests the accuracy of any  
22 invoice submitted to it by DWR pursuant to this Contract it shall give DWR notice  
23 thereof at least ten (10) days prior to the day upon which payment of the stated amount

1 due. To the extent that DWR finds that the Contractor's claims regarding the invoice  
2 are correct, it shall revise the invoice accordingly, and the Contractor shall make  
3 payment of the revised amounts on or before the due date. To the extent that DWR  
4 does not find the Contractor's claims correct, or where time is not available for review of  
5 such claims for correctness prior to due date, the Contractor shall make payment of the  
6 stated amounts on or before the due date, but may make the contested part of such  
7 payment under protest and seek to recover the amount from DWR.

8 (k) If in any year, by reason of errors in computation or other causes,  
9 there is an overpayment or underpayment to DWR by the Contractor of its charges, the  
10 amount of such overpayment or underpayment shall be credited or debited, as the case  
11 may be, to the Contractor's account for the next succeeding year and DWR shall notify  
12 the Contractor in writing.

#### 13 10. ASSIGNMENT OF CONTRACT

14 Without the prior written consent of DWR, Reclamation, and the Contractor, this  
15 Contract is not assignable in whole or in part.

#### 16 11. MODIFICATION OF CONTRACT

17 No modification of the terms of this Contract shall be valid unless made in writing  
18 and signed by the Parties to this Contract.

#### 19 12. PARAGRAPH HEADINGS

20 The paragraph headings of this Contract are for the convenience of the Parties  
21 and shall not be considered to limit, expand, or define the contents of the respective  
22 paragraphs.

#### 23 13. OPINIONS AND DETERMINATIONS

1           Where the terms of this Contract provide for actions to be based upon the  
2 opinion or determination of any party to this Contract, said terms shall not be construed  
3 as permitting such action to be predicated upon arbitrary, capricious, or unreasonable  
4 opinions or determinations. As provided in Article 14, the Parties expressly reserve the  
5 right to seek relief from and appropriate adjustment for any such arbitrary, capricious or  
6 unreasonable opinion or determination. Each opinion or determination by any party to  
7 this Contract shall be provided in a timely manner.

#### 8           14.   DISPUTE RESOLUTION

9           In the event of a dispute regarding interpretation or implementation of this  
10 Contract, a party shall provide written notice of the dispute to the other Parties. The  
11 Parties shall endeavor to resolve the dispute by meeting within 30 days of the written  
12 notice, or at a later date by mutual written agreement by the Parties. The representative  
13 for each party to this meeting shall be an individual authorized by that party to resolve  
14 the Contract interpretation or implementation issues. If the dispute is unresolved  
15 following the meeting, the authorized signatory of the Contractor or its designee, the  
16 Director of DWR and the Regional Director of Reclamation or their designees shall meet  
17 within 30 days (Directors' meeting), or at a later date by mutual written agreement of the  
18 Parties, after the initial meeting to resolve the dispute. If the dispute still remains  
19 unresolved, the Parties shall use the services of a mutually acceptable consultant in an  
20 effort to resolve the dispute. The Parties shall share the fees and expenses of the  
21 consultant equally. If a consultant cannot be agreed upon, or if the consultant's  
22 recommendations are not acceptable to the Parties, or 90 days after the Directors'  
23 meeting, and unless the Parties otherwise agree, the matter may be resolved by

1 litigation, and any party may at its option pursue any available legal remedy, including  
2 but not limited to, injunctive and other equitable relief; provided that this process shall  
3 not be required where a delay in commencing an action would prejudice the interests of  
4 the party that intends to file suit. Except as specifically provided, nothing herein is  
5 intended to waive or abridge any right or remedy that any party may have.

6 15. NOTICES

7 Any notice, demand or request authorized by this Contract shall be in writing and  
8 either hand-delivered or sent by United States first class mail, postage prepaid, or by  
9 facsimile or electronic mail followed by written notice sent by U.S. mail. Unless and until  
10 formally notified otherwise, notices shall be sent to the following addresses:

11 Director of Water Resources

12 P.O. Box 942836

13 Sacramento, CA 94236-0001

14  
15 Contractor (Full name of District)

16 Address

17 City, State, & ZIP Code

18  
19 Regional Director, Mid-Pacific Region

20 U.S. Department of the Interior Bureau of Reclamation

21 Address

22 City, State, & ZIP Code

23 16. SIGNATURE CLAUSE

24 The signatories represent that they have been appropriately authorized to enter

- 1 into this Contract on behalf of the party for whom they sign. A copy of the resolution
- 2 authorizing the Contractor to enter into this Contract shall be delivered to DWR before
- 3 implementation of this Contract.

DRAFT



1 IN WITNESS WHEREOF, the Parties hereto have executed this Contract as of  
2 the day and year first above written.

3 UNITED STATES OF AMERICA

4 By: \_\_\_\_\_  
5 Regional Director, Mid-Pacific Region  
6 Bureau of Reclamation

7 Approved as to Legal Form and Sufficiency

8 DEPARTMENT OF WATER  
9 RESOURCES OF THE STATE OF  
CALIFORNIA

10 \_\_\_\_\_  
11 Chief Counsel  
12 Department of Water Resources

By: \_\_\_\_\_  
Director  
Department of Water Resources

13 (SEAL)

**INSERT CONTRACTOR HERE**

14  
15  
16 Attest:

By: \_\_\_\_\_  
President, Board of Directors

17 \_\_\_\_\_  
18 Secretary

***Appendix B-3 – Lower Tule River Irrigation District Interim Renewal Contract (IR-5)***

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION  
Central Valley Project, California

INTERIM RENEWAL CONTRACT BETWEEN THE UNITED STATES,  
THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF CALIFORNIA,  
AND  
LOWER TULE RIVER IRRIGATION DISTRICT  
PROVIDING FOR PROJECT WATER SERVICE

Table of Contents

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
	Preamble .....	1
	Explanatory Recitals .....	2
1	Definitions .....	4
2	Term of Contract--Right to Use of Water .....	8
3	Water to Be Made Available and Delivered to the Contractor .....	11
4	Time for Delivery of Water .....	14
5	Point of Diversion and Responsibility for Distribution of Water .....	15
6	Measurement of Water Within the District .....	20
7	Rates and Method of Payment to the United States for Water .....	21
8	Rate and Method of Payment for Conveyance and Other Services by DWR ...	24
9	Transfers or Exchanges of Water .....	27
10	Application of Payments and Adjustments .....	27
11	Temporary Reductions--Return Flows .....	28
12	Water Shortage and Apportionment .....	29
13	Unavoidable Groundwater Percolation .....	31
14	Compliance with Federal Reclamation Law .....	31
15	Water and Air Pollution Control .....	31
16	Quality of Water .....	31
17	Water Acquired by the Contractor Other than from the United States .....	32
18	Opinions and Determinations .....	33
19	United States Charges for Delinquent Payment .....	33
20	Equal Opportunity .....	34
21	General Obligation--Benefits Conditioned upon Payment .....	35
22	Compliance with Civil Rights Laws and Regulations .....	36
23	Privacy Act Compliance .....	37
24	Contractor to Pay Certain Miscellaneous Costs .....	37
25	Water Conservation .....	38

26	Existing or Acquired Water or Water Rights . . . . .	39
27	Operation and Maintenance by Non-Federal Entity . . . . .	40
28	Contingent on Appropriation or Allotment of Funds . . . . .	40
29	Books, Records, and Reports . . . . .	40
30	Assignment Limited--Successors and Assigns Obligated . . . . .	41
31	Severability . . . . .	41
32	Officials Not to Benefit . . . . .	42
33	Changes in Contractor's Boundaries . . . . .	42
34	Notices . . . . .	42
	Signature Page . . . . .	43
	Exhibit A	
	Exhibit B	

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION  
Central Valley Project, California

INTERIM RENEWAL CONTRACT BETWEEN THE UNITED STATES,  
THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF CALIFORNIA,  
AND  
LOWER TULE RIVER IRRIGATION DISTRICT  
PROVIDING FOR PROJECT WATER SERVICE

1           THIS CONTRACT, made this 6<sup>th</sup> day of March 2001, in pursuance generally  
2 of the Act of June 17, 1902 (32 Stat. 388), and Acts amendatory or supplementary thereto, including,  
3 but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and supplemented, August  
4 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70 Stat. 483), June 21, 1963  
5 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), as amended, and Title XXXIV of the Act of October  
6 30, 1992 (106 Stat. 4706), all collectively hereinafter referred to as the Federal Reclamation law, and  
7 pursuant to the California Central Valley Project Act [Part 3, Division 6 (commencing at Section  
8 11100) of the California Water Code] and the California Water Resources Development Bond Act  
9 [Chapter 8, Part 6, Division 6 (commencing at Section 12930) of the California Water Code,] and  
10 all acts of the California legislature amendatory thereto or supplementary thereof between THE  
11 UNITED STATES OF AMERICA, hereinafter referred to as the United States, THE  
12 DEPARTMENT OF WATER RESOURCES OF THE STATE OF CALIFORNIA, hereinafter  
13 referred to as DWR, and LOWER TULE RIVER IRRIGATION DISTRICT, hereinafter referred to  
14 as the Contractor, a public agency of the State of California, duly organized, existing, and acting  
15 pursuant to the laws thereof, with its principal place of business in Woodville, California;

16           WITNESSETH, That:



1 which is hereinafter referred to as the Existing Interim Renewal Contract, which provided for the  
2 continued water service to the Contractor from December 1, 2000, through February 28, 2001; and

3 WHEREAS, the Contractor has requested a subsequent interim renewal contract  
4 pursuant to the Existing Interim Renewal Contract, Federal Reclamation law and the laws of the  
5 State of California, for water service from the Central Valley Project; and

6 WHEREAS, the United States has determined that the Contractor has to date fulfilled  
7 all of its obligations under the Existing Interim Renewal Contract; and

8 WHEREAS, the Contracting Officer has determined that the Contractor has the  
9 capability to fully utilize for reasonable and beneficial use, or shown projected future reasonable and  
10 beneficial use for, the quantity of Project Water to be made available to it pursuant to this interim  
11 renewal contract; and

12 WHEREAS, rights of renewal of Contract No. 14-06-200-8237A are set forth in said  
13 contract; and

14 WHEREAS, Section 3404 of the CVPIA precludes long-term renewal of water  
15 service contracts until the completion of appropriate environmental documentation, including a  
16 programmatic environmental impact statement ("PEIS") pursuant to the National Environmental  
17 Policy Act analyzing the direct and indirect impacts and benefits of implementing the CVPIA and  
18 the potential renewal of all existing contracts for Project Water; and

19 WHEREAS, in order to continue water service provided under Project Water service  
20 contracts that expire prior to the completion of the PEIS, the United States intends to execute interim  
21 renewal contracts for a period not to exceed three (3) Years in length, and for successive interim  
22 periods of not more than two (2) Years in length, until appropriate environmental documentation,  
23 including the PEIS, is finally completed, at which time the Secretary shall, pursuant to Federal  
24 Reclamation law, upon request of the Contractor, enter into a long-term renewal contract for a period

1 of twenty-five (25) Years; and may thereafter renew such long-term renewal contracts for successive  
2 periods not to exceed twenty-five (25) Years each; and

3 WHEREAS, the Secretary intends to assure uninterrupted water service and  
4 continuity of contract through the process set forth in Article 2 hereof; and

5 WHEREAS, the United States is willing to renew the Existing Interim Renewal  
6 Contract pursuant to Section 3404(c)(1) of the CVPIA on the terms and conditions set forth below;

7 WHEREAS, the United States and the Contractor desire to contract with DWR for  
8 conveyance of Project Water through the facilities of the SWP as aforesaid under an arrangement  
9 wherein the United States will furnish the necessary power for pumping such water through DWR's  
10 Delta Pumping Plant and Dos Amigos Pumping Plant; and

11 WHEREAS, DWR is willing to convey such water through State Facilities subject  
12 to the availability of transportation capacity and payment of costs as herein provided.

13 NOW, THEREFORE, in consideration of the mutual and dependent covenants herein  
14 contained, it is hereby mutually agreed by the parties hereto as follows:

15 DEFINITIONS

16 1. When used herein unless otherwise distinctly expressed, or manifestly incompatible  
17 with the intent hereof, the term:

18 (a) "Calendar Year" shall mean the period January 1 through December 31, both  
19 dates inclusive;

20 (b) "Charges" shall mean the payments in addition to the Rates determined  
21 annually by the Contracting Officer, required by the Federal Reclamation law, including  
22 Section 3407 of the CVPIA;

23 (c) "Contracting Officer" shall mean the duly authorized representative of the  
24 Secretary of the United States Department of the Interior;



1 (d) "Cross Valley Canal" shall mean the water conveyance and related works  
2 constructed by the Contractor and others to deliver water from the State Facilities, which  
3 canal currently is operated by KCWA;

4 (e) "CVPIA" shall mean the Central Valley Project Improvement Act, Title  
5 XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

6 (f) "Delivered Water" shall mean Project Water made available to the Contractor  
7 and diverted at the point(s) of delivery approved by the Contracting Officer;

8 (g) "Eligible Lands" shall mean all lands to which Irrigation Water may be  
9 delivered in accordance with Section 204 of the Reclamation Reform Act of 1982 (43 U.S.C.  
10 390aa, et seq.), as amended, hereinafter referred to as RRA;

11 (h) "Entitlement Water" shall mean the amount of SWP Water made available  
12 to a SWP Contractor during the respective year, as shown in Table A of their contract with  
13 DWR, or as it may be amended;

14 (i) "Excess Lands" shall mean all lands defined as excess in Section 204 of the  
15 RRA, other than those lands exempt from acreage limitation under Federal Reclamation law;

16 (j) "Full Cost Rate" shall mean that water rate described in Sections 205(a)(3)  
17 or 202(3) of the RRA, whichever is applicable;

18 (k) "Ineligible Lands" shall mean all lands to which Irrigation Water may not be  
19 delivered in accordance with Section 204 of the RRA;

20 (l) "Irrigation Water" shall mean Project Water which is used primarily in the  
21 production of agricultural crops or livestock, including domestic use incidental thereto, and  
22 watering of livestock;

23 (m) "KCWA" shall mean the Kern County Water Agency;

24 (n) "Landholder" shall mean an individual or entity attributed with the total

1 irrigable acreage of one or more tracts of land situated in one or more districts owned and/or  
2 operated under a lease which is served with Irrigation Water pursuant to a contract with the  
3 United States;

4 (o) "M&I Water" shall mean water made available from the Project other than  
5 Irrigation Water. M&I Water shall include water used for purposes such as the watering of  
6 landscaping or pasture for animals (e.g., horses) which are kept for personal enjoyment or  
7 water delivered to landholdings operated in units of less than five (5) acres unless the  
8 Contractor establishes to the satisfaction of the Contracting Officer that the use of water  
9 delivered to any such landholding is a use described in subdivision (l) of this Article.

10 (p) "Minimum OMP&R Costs" shall mean those OMP&R Costs incurred by  
11 DWR irrespective of the amount of water delivered to the Contractor;

12 (q) "OMP&R Costs" shall mean the costs incurred by DWR for operation,  
13 maintenance, power and replacement of all State Facilities used in conveying Project Water  
14 to the Contractor;

15 (r) "O&M" shall mean normal and reasonable care, control, operation, repair,  
16 replacement and maintenance of Project facilities;

17 (s) "Operating Non-Federal Entity" shall mean a Non-Federal entity which has  
18 the obligation to operate and maintain all or a portion of the Project facilities pursuant to an  
19 agreement with the United States;

20 (t) "Operations Manual" shall mean the manual setting forth detailed operations  
21 and management procedures prepared by DWR, the Contracting Officer and the Contractor;

22 (u) "Project" shall mean the Central Valley Project owned by the United States  
23 and operated by the Department of the Interior, Bureau of Reclamation;

24 (v) "Project Water" shall mean all water that is developed, diverted, stored, or

1 delivered by the United States in accordance with the statutes authorizing the Project and in  
2 accordance with the terms and conditions of applicable water rights permits and licenses  
3 acquired by and/or issued to the United States pursuant to California law;

4 (w) "Rates" shall mean the payments determined annually by the Contracting  
5 Officer in accordance with the then current applicable water ratesetting policies for the  
6 Project;

7 (x) "Section 215 Water" shall mean a supply of Irrigation Water made available  
8 to the Contractor pursuant to Section 215 of the RRA;

9 (y) "Secretary" shall mean the Secretary of the United States Department of the  
10 Interior;

11 (z) "State Facilities" shall mean that portion of the SWP (including DWR's  
12 portion of joint facilities), necessary to convey Project Water from the Sacramento-San  
13 Joaquin Delta (Delta) to the Cross Valley Canal;

14 (aa) "SWP Contractor" shall mean any entity contracting with DWR for a portion  
15 of the minimum project yield of the SWP;

16 (bb) "SWP" shall mean the California State Water Project;

17 (cc) "SWP Water" shall mean water made available through SWP operations  
18 including conservation, purchase, and diversion under water rights of DWR;

19 (dd) "Variable OM&R Costs" shall mean those costs incurred by DWR for  
20 operation, maintenance and replacement costs of State Facilities which are dependant upon  
21 and vary with the amount of water delivered; and

22 (ee) "Year" shall mean the period from and including March 1 of each Calendar  
23 Year through the last day of February of the following Calendar Year.



1 agree that this interim renewal contract preserves the rights and positions of the parties and that the  
2 omission of language in this interim renewal contract setting out the rights asserted by the Contractor  
3 to successive renewals is not intended to be, nor shall it be interpreted as, a waiver of any such rights  
4 to the extent any such rights are later determined to exist by a court of competent jurisdiction or by  
5 mutual agreement of the parties. If a court of competent jurisdiction or the parties by mutual  
6 agreement determine that incorporation of such language in this interim renewal contract is necessary  
7 to preserve such rights, this interim renewal contract shall be construed as incorporating such  
8 language as though fully set forth herein as of the effective date hereof.

9 (b) The parties anticipate that they will engage in good faith negotiations intended  
10 to permit the execution of a twenty-five (25) Year long-term renewal contract contemplated by  
11 Section 3404 (c) of the CVPIA, hereinafter referred to as a "long-term renewal contract", by the end  
12 of the term hereof. The parties recognize the possibility that this schedule may not be met.

13 Accordingly:

14 (1) In the event (i) the Contractor and Contracting Officer have reached  
15 agreement on the terms of the Contractor's long-term renewal contract or (ii) the Contractor and  
16 Contracting Officer have not completed the negotiations on the Contractor's long-term renewal  
17 contract, believe that further negotiations on that contract would be beneficial, and mutually commit  
18 to continue to negotiate to seek to reach agreement, but (iii) all environmental documentation  
19 required to allow execution of the Contractor's long-term renewal contract by both parties has not  
20 been completed in time to allow execution of the Contractor's long-term renewal contract by  
21 November 30, 2001, then (iv) the parties will expeditiously complete the environmental  
22 documentation required of each of them in order to execute the Contractor's long-term renewal  
23 contract at the earliest practicable date. In addition, the Contractor's then current interim renewal  
24 contract will be renewed without change upon the request of either party through the agreed-upon

1 effective date of the Contractor's long-term renewal contract or, in the absence of agreement on the  
2 terms of the Contractor's long-term renewal contract, through the succeeding February 28.

3 (2) Provided that this interim renewal contract is not subject to renewal  
4 under the terms described in subdivision (1) of this Article, if a party determines that the parties have  
5 reached an impasse which they have been unable to resolve and which precludes agreement on the  
6 long-term renewal contract, that party may notify the other that it has concluded that there is no  
7 reasonable likelihood of reaching agreement on the terms of a long-term renewal contract. In the  
8 event of such notice, the parties will immediately agree to a schedule and process for negotiating the  
9 terms (other than any terms that would impair continuity of water supply or continuity of contract)  
10 of and executing an interim renewal contract; provided that neither party will propose for inclusion  
11 in the interim renewal contract any provision not previously included in an existing interim renewal  
12 contract which it had previously proposed for inclusion in the long-term renewal contract and which  
13 was the subject of an impasse in the long-term renewal contract negotiations. The schedule will  
14 provide for completion of the negotiations of the terms of that contract by February 1, 2002, and for  
15 execution of the contract on or about February 15, 2002. The parties each acknowledge the right of  
16 either party to seek judicial relief in connection with any impasse reached in connection with  
17 negotiation of the long-term renewal contract and/or an interim renewal contract that would become  
18 effective on or after February 28, 2002.

19 (c) The parties acknowledge that the Contractor asserts that it is entitled as a  
20 matter of law to an interim renewal contract of longer duration than twelve (12) months, and that the  
21 Contracting Officer asserts that it is under no obligation to provide the Contractor with an interim  
22 renewal contract of any particular duration. Accordingly, the parties further acknowledge that (i) the  
23 foregoing process represents a mutual accommodation to facilitate their joint desire to proceed with  
24 the development of a long-term renewal contract in an expeditious and orderly manner, (ii) they each

1 preserve their respective rights and positions relative to the entitlement of the Contractor to  
2 subsequent interim renewal contracts should they become necessary, and the terms thereof, and (iii)  
3 their agreement to the process and interim renewal contract terms described above is in no way  
4 intended to be, nor will it be interpreted as, a waiver of any such rights or positions, all of which are  
5 and will be expressly preserved.

6 (d) DWR shall negotiate in good faith with the Contractor and the United States  
7 in the process described in (a), (b), and (c) in this Article: Provided, That no such interim renewal  
8 contract or long-term renewal contract shall obligate DWR to provide conveyance and/or storage  
9 beyond February 28, 2035 without further negotiations. The parties acknowledge that operation of  
10 State Facilities is not, and shall not be, subject to federal Reclamation law.

11 (e) The omission of language in this interim renewal contract providing for  
12 conversion of this interim renewal contract or any subsequent renewals thereof to a repayment  
13 contract, pursuant to the Act of July 2, 1956 (70 Stat. 483), shall not prejudice the Contractor's right  
14 to assert a right to have such language included in subsequent renewals of this interim renewal  
15 contract or to exercise such conversion, all as provided by law, or to negotiate the language regarding  
16 such conversion to be included in subsequent renewal contracts.

17 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

18 3. (a) Subject to the provisions set forth in Articles 11 and 12 hereof, and consistent  
19 with applicable State water rights, permits and licenses, the Contractor is entitled to, and the  
20 Contracting Officer shall be obligated to make available to the Contractor from the Project up to  
21 31,102 acre-feet of Project Water for irrigation and/or municipal and industrial purposes during the  
22 term of this interim renewal contract. The quantity of Project Water delivered to the Contractor in  
23 accordance with this Article 3(a) in any Year shall be scheduled, conveyed and paid for pursuant to

1 the provisions of this interim renewal contract, attached exhibits and the Operations Manual  
2 (including any subsequent modifications thereto), and shall not exceed the quantity of Project Water  
3 the Contractor intends to put to reasonable beneficial use within the Contractor's boundaries or sold,  
4 transferred, or exchanged pursuant to Article 9 during the term of this interim renewal contract.

5 (b) The Contractor shall utilize the Project Water made available to it pursuant  
6 to this interim renewal contract in accordance with all applicable requirements of any Biological  
7 Opinion addressing the execution of this interim renewal contract developed pursuant to Section 7  
8 of the Endangered Species Act of 1973 as amended, and in accordance with environmental  
9 documentation as may be required for specific activities, including conversion of Irrigation Water  
10 to M&I Water.

11 (c) The Contractor shall make reasonable and beneficial use of Project Water or  
12 other water furnished pursuant to this interim renewal contract. Groundwater recharge which is  
13 consistent with applicable State law shall be considered a reasonable and beneficial use of Project  
14 Water permitted hereunder.

15 (d) Delivery of Project Water to the Contractor from the Friant Division pursuant  
16 to Articles 3(e) and 5(c) shall be subject to the completion of the appropriate environmental  
17 documentation to the extent such environmental documentation has not been previously completed.

18 (e) If the Contracting Officer determines that Project Water, or other water  
19 available to the Project, can be made available to the Contractor in addition to the quantity of Project  
20 Water made available to the Contractor pursuant to subdivision (a) of this Article, the Contracting  
21 Officer shall so notify the Contractor. If the Contractor requests the delivery of any quantity of such  
22 water, the Contracting Officer shall, subject to Article 3(d), make such water available to the  
23 Contractor in accordance with applicable statutes, regulations, guidelines, and policies. If the



1 Contracting Officer determines that there is an unusually large water supply not otherwise storable  
2 for Project purposes or infrequent and otherwise unmanaged flood flows of short duration from the  
3 Friant Division, then Friant Division Project Water may be made available to the Contractor as  
4 Section 215 Water if the Contractor enters into a temporary contract, not to exceed one (1) year, with  
5 the United States for the delivery of such water or, as otherwise provided for in Federal Reclamation  
6 law and associated regulations: Provided, That such water shall be first made available to the original  
7 twenty-eight (28) long-term Friant Division contractors. Water in addition to the quantities  
8 provided for in this interim renewal contract made available to the Contractor by the Contracting  
9 Officer shall be scheduled, conveyed and/or stored by DWR only to the extent that DWR has  
10 provided separate approval to do so.

11 (f) If the Contractor requests permission to reschedule for use during the  
12 subsequent Year some or all of the Project Water made available to the Contractor during the current  
13 Year or to use, during the current Year, that quantity of Project Water the United States has agreed  
14 to make available to the Contractor during the subsequent Year, the Contracting Officer may permit  
15 such uses in accordance with applicable statutes, regulations, guidelines and policies.

16 (g) The Contractor's right pursuant to Federal Reclamation law and applicable  
17 State law to the beneficial use of water furnished pursuant to this interim renewal contract, any  
18 subsequent interim renewal contract and, as described in Article 2(a), any long-term renewal  
19 contract, shall not be disturbed so long as the Contractor shall fulfill all of its obligations under this  
20 interim renewal contract and any such renewal thereof. Nothing in the preceding sentence shall  
21 affect the Contracting Officer's ability to impose shortages under Article 12(b) of this interim  
22 renewal contract and the applicable provisions of any such renewal thereof.

23 (h) Notwithstanding subdivisions (l) and (o) of Article 1, Project Water furnished  
24 to the Contractor pursuant to this interim renewal contract may be delivered for purposes other than

1 those described in subdivisions (l) and (o) of Article 1 upon written approval by the Contracting  
2 Officer in accordance with the terms and conditions of such approval.

3 (i) Conveyance and/or storage of Project Water by DWR shall be subject to  
4 capacity available in State Facilities in excess of capacity determined by DWR to be needed for all  
5 SWP operations or services to long-term SWP Contractors. Conveyance and/or storage for the  
6 Contractor may be curtailed prior or subsequent to approval of the Contractor's schedule under  
7 Article 4 hereof, in the event it interferes with the delivery of water to SWP Contractors or other  
8 SWP operations necessary to meet long-term obligations of the SWP, including delivery of water  
9 to SWP storage or reregulation of stored water for delivery to SWP Contractors.

10 (j) If in any year after DWR and the Contracting Officer have approved a  
11 schedule or any revision thereof submitted in accordance within subdivision (a) and (b) of Article  
12 4, and if the United States and/or DWR are unable to make water available in the quantities and at  
13 the times requested in the schedule and the Contractor does not elect to receive and does not receive  
14 such water at other times during such year, then the Contractor shall be entitled to an adjustment as  
15 provided in Articles 7(c), 8(d), and 10.

#### 16 TIME FOR DELIVERY OF WATER

17 4. (a) On or about February 15 of each Calendar Year, the Contracting Officer shall  
18 declare the amount of Project Water estimated to be made available to the Contractor pursuant to this  
19 interim renewal contract for the upcoming Year. The declaration will be updated monthly, as  
20 necessary, based on current hydrologic conditions. The Contracting Officer shall make available the  
21 forecast of Project operations, with relevant supporting information, upon the written request of the  
22 Contractor or its representatives. Upon written request of the Contractor, the Contracting Officer  
23 shall provide the basis of the estimate.

24 (b) On or before each March 1, and at such other times as necessary, the

1 Contractor, after approval of KCWA on behalf of the Contractor, shall submit to DWR and the  
2 Contracting Officer a written schedule satisfactory to the Contracting Officer and consistent with the  
3 criteria specified in the Operations Manual. The written schedule shall show the times, and  
4 quantities by month of Project Water to be made available by the United States for delivery to the  
5 Contractor during the upcoming Year pursuant to this interim renewal contract, and, consistent with  
6 subdivision (a) of Article 3 herein.

7 (c) Subject to the conditions set forth in subdivision (a), Article 3, the United  
8 States and DWR shall deliver Project Water to the Contractor in accordance with the approved  
9 schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any approved  
10 revision(s) thereto submitted within a reasonable time prior to the date(s) on which the requested  
11 change(s) is/are to be implemented.

12 (d) Scheduling and delivery of Project Water to the Contractor shall be in  
13 accordance with detailed procedures set forth in the Operations Manual as it may be amended from  
14 time to time.

15 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

16 5. (a) The Project Water to be furnished to the Contractor by the Contracting Officer  
17 pursuant to this interim renewal contract shall be made available to the Contractor at a point or  
18 points of delivery mutually agreed to in writing by the Contracting Officer, DWR and the Contractor  
19 either on Project and/or State Facilities or another location or locations. The parties acknowledge  
20 that Project Water to be furnished to the Contractor pursuant to this interim renewal contract shall  
21 be delivered to the Contractor by direct delivery via the Cross Valley Canal and/or by exchange  
22 arrangements involving Arvin-Edison Water Storage District or others. The parties further  
23 acknowledge that such exchange arrangements are not transfers subject to Section 3405(a) of  
24 CVPIA. Notwithstanding Article 9, such exchange arrangements, other than the previously approved

1 exchange arrangements with Arvin-Edison Water Storage District, shall be submitted to the  
2 Contracting Officer for approval in accordance with the same criteria historically applied by the  
3 Contracting Officer or with the then existing Project-wide criteria. DWR shall have no obligation  
4 to make such exchange arrangements or be responsible for water transported in facilities that are not  
5 a part of the SWP.

6 (b) When Project Water is made available by the Contracting Officer at Clifton  
7 Court Forebay, DWR shall provide to the Contractor, subject to the availability of capacity as  
8 determined by DWR, conveyance from the Delta and storage in DWR's share of storage at San Luis  
9 Reservoir, if necessary, of such Project Water consistent with the following provisions and the  
10 Operations Manual;

11 (1) The United States shall deliver or cause to be delivered into the State's  
12 Clifton Court Forebay, Project Water in such quantities and of such quality as shall be sufficient to  
13 perform the United State's and DWR's obligation to furnish water to the Contractor as set forth in  
14 this interim renewal contract. Such deliveries into Clifton Court Forebay shall be made at such times  
15 and rates of flow as the Contracting Officer and DWR shall agree.

16 (2) DWR, in accordance with an approved Project Water delivery  
17 schedule, shall convey the amount of water delivered into DWR's Clifton Court Forebay by the  
18 Contracting Officer directly: (i) to the Cross Valley Canal turnout in Reach 12E of the California  
19 Aqueduct or to other points of diversion mutually agreed to in writing by DWR and the Contractor,  
20 or (ii) to DWR or federal share of storage in San Luis Reservoir for later release and delivery to the  
21 Contractor or (iii) to replace water delivered to the Contractor from DWR's share of San Luis  
22 Reservoir prior to DWR receiving Project Water from the United States, to the extent DWR  
23 determines that capacity (and water in the event of an exchange) is available for such conveyance,  
24 storage, or exchange (if any). Such deliveries of Project Water shall be required to be made in a

1 manner which will not increase the cost of or adversely affect SWP operations and the quantity or  
2 quality of water deliveries to SWP Contractors.

3 (3) If DWR delivers water to the Contractor from DWR's share of storage  
4 in San Luis Reservoir prior to the United States providing Project Water at DWR's Clifton Court  
5 Forebay, the United States shall return a like amount of water to DWR pursuant to the procedures  
6 set forth in the Operations Manual.

7 (4) The total amount of Project Water delivered at Clifton Court Forebay  
8 to DWR by the United States shall include water to compensate DWR for water conveyance and  
9 storage losses incurred in the delivery of Project Water to the Contractor. The amount of such  
10 conveyance and storage losses will be determined pursuant to procedures set forth in the Operations  
11 Manual.

12 (5) Project Water received by DWR at Clifton Court Forebay for  
13 conveyance and/or storage for delivery to the Contractor will be commingled with waters of DWR  
14 which are pumped through facilities of the California Aqueduct and with other waters of both the  
15 United States and DWR in the joint use facilities of the San Luis Unit.

16 (6) Priorities for use of DWR's share of storage at San Luis Reservoir for  
17 storage of Project Water shall be subject to all DWR obligations to the SWP operations and SWP  
18 Contractors and to the criteria specified in the Operations Manual.

19 (7) Subject to the necessary arrangements, the United States shall transmit  
20 or cause to be transmitted, by exchange or otherwise, such quantities of power as shall be required  
21 by DWR to pump through its Delta Pumping Plant and its share of Dos Amigos Pumping Plant, the  
22 quantities of Project Water transported into Clifton Court Forebay pursuant to (1) of this subsection.

23 (8) DWR shall furnish the Contracting Officer with such information as  
24 the Contracting Officer and DWR agree is needed regarding the timing and quantities of power

1 required by DWR to pump Project Water. Such information shall be exchanged between the United  
2 States and DWR in accordance with provisions set forth in the Operations Manual.

3 (9) The United States and DWR may, under terms and conditions  
4 satisfactory to both, and in accordance with applicable law, exchange water and/or power necessary  
5 for delivery of Project Water to the Contractor under terms of this interim renewal contract. Such  
6 exchange shall be in accordance with the provisions set forth in the Operations Manual.

7 (c) To the extent that Friant Division Project Water exceeds Contract demand and  
8 other Project purposes, as determined by the Contracting Officer, and if the Contractor so requests,  
9 the Contracting Officer, subject to Article 3(d), shall make Project Water provided for in Article 3  
10 (a) of this interim renewal contract available from such Friant Division supplies.

11 (d) Project Water may be provided by the Contracting Officer to the Contractor,  
12 at the Contractor's request, through federal delta diversion and conveyance facilities and/or stored  
13 in the federal share of storage at San Luis Reservoir for reregulation for later delivery to the  
14 Contractor to the extent such diversion, conveyance and/or storage does not diminish the ability of  
15 the Project to deliver Project Water to users in the Delta Division, San Luis Unit and San Felipe  
16 Division service areas or to meet other legal obligations of the Project. The Contractor asserts that  
17 it has rights to utilize Project facilities, including, but not limited to, those constructed pursuant to  
18 the Act of June 3, 1960 (Public Law 86-488). The Contracting Officer disagrees with this assertion.  
19 The parties agree that this interim renewal contract preserves the rights and positions of the parties  
20 with respect to use of Project facilities arising pursuant to Contract No. 14-06-200-8292A, and the  
21 inclusion or omission of language in this interim renewal contract is not intended to be, nor shall it  
22 be interpreted as, a waiver of any such rights should they later be determined to exist by a court of  
23 competent jurisdiction or by mutual agreement of the parties.

24 (e) Irrigation Water furnished to the Contractor pursuant to this interim renewal

1 contract shall be delivered by the Contractor in accordance with any applicable land classification  
2 provisions of Federal Reclamation law and the associated regulations. Project Water shall not be  
3 delivered to land outside the Contractor's boundaries unless approved in advance by the Contracting  
4 Officer.

5 (f) All Project Water delivered to the Contractor pursuant to this interim renewal  
6 contract shall be measured and recorded with equipment furnished, installed, operated and  
7 maintained by the United States or the responsible Operating Non-Federal Entity or DWR at the  
8 point or points of delivery established pursuant to subdivisions (a) and (b) of this Article. Upon the  
9 request of any party to this interim renewal contract, the Contracting Officer or DWR shall  
10 investigate the accuracy of such measurements and shall take any necessary steps to adjust any errors  
11 appearing therein. The Contractor shall advise the Contracting Officer on or before the tenth (10th)  
12 calendar day of each month of the quantity of M&I Water taken during the preceding month.

13 (g) Neither the United States nor any Operating Non-Federal Entity nor DWR  
14 shall be responsible for the control, carriage, handling, use, disposal, or distribution of Project Water  
15 made available to the Contractor pursuant to this interim renewal contract beyond the delivery points  
16 specified in subdivisions (a) and (b) of this Article. The Contractor shall indemnify the United States  
17 and DWR and their respective officers, employees, agents and assigns on account of damage or  
18 claim of damage of any nature whatsoever for which there is legal responsibility, including property  
19 damage, personal injury or death arising out of or connected with the control, carriage, handling, use,  
20 disposal, or distribution of such Project Water beyond such delivery points, except for any damage  
21 or claim arising out of (i) acts performed by the United States, DWR or any of their officers,  
22 employees, agents or assigns, including any responsible Operating Non-Federal Entity, with the  
23 intent of creating the situation resulting in any damage or claim, (ii) willful misconduct of the United  
24 States or DWR or any of their officers, employees, agents, or assigns, including any responsible

1 Operating Non-Federal Entity, or (iii) negligence of the United States or DWR or any of their  
2 officers, employees, agents or assigns including any responsible Operating Non-Federal Entity. In  
3 the event any such claim or liability, referenced in this Article or otherwise arising from this  
4 Agreement, is made against DWR, its officers or its employees, the Contractor agrees to defend,  
5 indemnify and hold each of them harmless from such claim to the extent such claim does not arise  
6 from an error or omission of DWR related to the control, carriage, handling, use, disposal, or  
7 distribution of Project Water made available to the Contractor by the United States.

8 MEASUREMENT OF WATER WITHIN THE DISTRICT

9 6. (a) The Contractor shall ensure that, unless the Contractor has established an  
10 alternative measurement program satisfactory to the Contracting Officer, all surface water delivered  
11 for irrigation purposes within the Contractor's boundaries is measured at each agricultural turnout  
12 and such water delivered for municipal and industrial purposes is measured at each municipal and  
13 industrial service connection. All water measuring devices or water measuring methods of  
14 comparable effectiveness must be acceptable to the Contracting Officer. The Contractor shall be  
15 responsible for installing, operating, and maintaining and repairing all such measuring devices and  
16 implementing all such water measuring methods at no cost to the United States. The Contractor  
17 shall use the information obtained from such water measuring devices or water measuring methods  
18 to ensure proper management of the water; to bill water users for water delivered by the Contractor;  
19 and, if applicable, to record water delivered for municipal and industrial purposes by customer class  
20 as defined in its water conservation plan. Nothing herein contained, however, shall preclude the  
21 Contractor from establishing and collecting any charges, assessments or other revenues authorized  
22 by California law. The Contractor shall include a summary of its annual surface water deliveries in  
23 the annual report described in Article 25(d).

24 (b) Omitted.



1 (c) All new surface water delivery systems installed within the Contractor's  
2 boundaries after the effective date of this interim renewal contract shall also comply with the  
3 measurement provisions described in subdivision (a) of this Article.

4 (d) The Contractor shall inform the Contracting Officer and DWR in writing by  
5 April 30 of each Year of the monthly volume of surface water delivered within the Contractor's  
6 boundaries during the previous Year.

7 RATES AND METHOD OF PAYMENT TO THE UNITED STATES FOR WATER

8 7. (a) The Contractor shall pay the United States in monthly payments as provided  
9 in this Article for the quantities of Delivered Water furnished to the Contractor pursuant to this  
10 interim renewal contract. Such payments shall consist of the applicable Rates and Charges  
11 determined annually in accordance with applicable Federal law and associated regulations. The  
12 Rates and Charges applicable upon execution of this interim renewal contract are set forth in Exhibit  
13 "A."

14 (b) The Contracting Officer shall notify the Contractor of the Rates and Charges  
15 as follows:

16 (1) Prior to July 1, of each Calendar Year, the Contracting Officer shall  
17 provide the Contractor the preliminary calculation of the Charges that will be applied for the period  
18 October 1, of the current Calendar Year, through September 30, of the following Calendar Year, and  
19 identify the statutes, regulations and guidelines used as the basis for such calculations. On or before  
20 September 15, of each Calendar Year, the Contracting Officer shall notify the Contractor in writing  
21 of the Charges to be in effect during the period October 1, of the current Calendar Year, through  
22 September 30, of the following Calendar Year, and such notification shall revise Exhibit "A."

23 (2) Prior to October 1 of each Calendar Year, the Contracting Officer shall  
24 make available to the Contractor an estimate of the Rates of payment for the following Year,

1 including Rates for use of applicable Project facilities, including but not limited to San Luis  
2 Reservoir, and the computations and cost allocations upon which those Rates are based. The  
3 Contractor shall be allowed not less than two (2) months to review and comment on such  
4 computations and cost allocations. By December 31 of each Calendar Year, the Contracting Officer  
5 shall provide the Contractor with the final Rates to be in effect for the upcoming Year, and such  
6 notification shall revise Exhibit "A."

7 (c) At the time the Contractor submits the initial schedule for the delivery of  
8 Project Water for each Year pursuant to Article 4(b) of this interim renewal contract, the Contractor  
9 shall pay the United States the total amount payable pursuant to the applicable Rate(s) for all Project  
10 Water scheduled to be delivered pursuant to this interim renewal contract during the first two (2)  
11 calendar months of the Year. Before the end of the first month or part thereof of the Year, and  
12 before the end of each calendar month thereafter, the Contractor shall pay pursuant to the applicable  
13 Rate(s) for all Project Water scheduled to be delivered pursuant to this interim renewal contract  
14 during the second month immediately following. Adjustments between the payments for the  
15 scheduled amount of Project Water and the appropriate payments for quantities of Delivered Water  
16 furnished pursuant to this interim renewal contract each month shall be made before the end of the  
17 following month: Provided, That any revised schedule submitted by the Contractor pursuant to  
18 Article 4 which increases the amount of Project Water to be delivered pursuant to this interim  
19 renewal contract during any month shall be accompanied with appropriate payment for Rates to  
20 assure that Project Water is not furnished to the Contractor in advance of such payment. In any  
21 month in which the quantity of Delivered Water furnished to the Contractor pursuant to this interim  
22 renewal contract equals the quantity of Project Water scheduled and paid for by the Contractor, no  
23 additional Project Water shall be made available to the Contractor unless and until payment of Rates  
24 for such additional Project Water is made. Final adjustment between the payments of Rates for the

1 Project Water scheduled and the quantities of Delivered Water furnished during each Year pursuant  
2 to its interim renewal contract shall be made as soon as possible but no later than April 30th of the  
3 following Year.

4 (d) The Contractor shall pay all Charges owing for Delivered Water before the  
5 end of the month following the month of delivery. Such amounts shall be consistent with the  
6 quantities of Irrigation Water and M&I Water shown in the United States' water delivery report for  
7 the subject month. The water delivery report shall be regarded by the Contractor as a bill for the  
8 payment of appropriate Charges. Any monthly adjustment for overpayment or underpayment of  
9 Charges shall be accomplished through the adjustment of Charges due to the United States in the  
10 next month. By March 31, of each Year, the Contractor shall make any additional payment of  
11 Charges it is obligated to make for Delivered Water furnished to the Contractor pursuant to its  
12 interim renewal contract for the previous Year. The amount to be paid for past due payment of  
13 Charges shall be computed pursuant to Article 19 of this interim renewal contract.

14 (e) The Contractor shall pay for any Project Water provided under Article 3(d)  
15 or 3(e) as determined by the Contracting Officer pursuant to applicable statutes, regulations,  
16 guidelines and policies.

17 (f) Payments to be made by the Contractor to the United States under this interim  
18 renewal contract may be paid from any revenues available to the Contractor.

19 (g) Revenues received by the United States pursuant to this interim renewal  
20 contract shall be allocated and applied in accordance with Federal Reclamation law, including but  
21 not limited to, subsection 3 of Section 1 of the Act of July 2, 1956 (70 Stat. 483), and subsection (f)  
22 of Section 3405, subsection (c)(1) of Section 3406 and subsection (d)(2)(A) of Section 3407 of the  
23 CVPIA, and the associated regulations, including but not limited to, the Project Irrigation Water  
24 ratesetting policy and the Project M&I Water ratesetting policy promulgated pursuant to the

1 are set forth in Exhibit "B." DWR shall invoice the Contractor monthly for all conveyance charges  
2 owing for the previous month. Payment by the Contractor to DWR shall be due thirty (30) days after  
3 the date of the invoice. Any payment not received within thirty (30) days after the date of the invoice  
4 shall be considered delinquent. Delinquent charges shall be calculated in accordance with Exhibit  
5 "B" of this interim renewal contract: Provided, That no interest shall be charged to or be paid by the  
6 Contractor unless such delinquency continues for more than thirty (30) days in total.

7 (b) DWR shall notify the Contractor of revision to the charges as follows:

8 Prior to October 1, of each Calendar Year, DWR shall notify the Contractor in writing of the charges  
9 to be in effect during the following Calendar Year, and such notification shall revise Exhibit "B."  
10 At the same time DWR shall provide to the Contractor a copy of the then most recent version of  
11 Appendix B of DWR Bulletin 132, which is the basis for calculating the charges to the Contractor  
12 to be in effect during that Calendar Year.

13 (c) DWR shall determine the charge per acre-foot for conveyance of water  
14 through the SWP each year to revise Exhibit "B" hereto as follows:

15 (1) When DWR provides conveyance directly from the Delta or from the  
16 federal share of storage at San Luis Reservoir, the unit conveyance charge shall equal the sum of the  
17 following, as determined by DWR:

18 (i) The equivalent unit transportation capital and Minimum  
19 OMP&R Costs for Reaches 1 through 12E, excluding Reach 3A, of the California Aqueduct;

20 (ii) The portion of the Delta Water Rate for Reaches 1, 2A, 2B and  
21 3 of the California Aqueduct;

22 (iii) The replacement component of the transportation Variable  
23 OM&R Costs for the Harvey O. Banks Delta Pumping Plant and DWR's share of the Dos Amigos  
24 Pumping Plant;

1 Administrative Procedures Act.

2 (h) At the Contractor's request, the Contracting Officer shall provide to the  
3 Contractor an accounting of all of the expenses allocated and the disposition of all revenues received  
4 pursuant to this interim renewal contract in sufficient detail to allow the Contractor to determine that  
5 the allocation of expenses and disposition of all revenues received was accomplished in conformance  
6 with Federal Reclamation law and the associated regulations. The Contracting Officer and the  
7 Contractor shall enter into good faith negotiations to resolve any discrepancies or disputes arising  
8 out of said accounting or the Contractor's review thereof.

9 (i) The parties acknowledge and agree that the efficient administration of this  
10 interim renewal contract is their mutual goal. Recognizing that experience has demonstrated that  
11 mechanisms, policies and procedures used for establishing Rates and Charges, and/or for making and  
12 allocating payments, other than those set forth in this Article would be in the mutual best interest of  
13 the parties, it is expressly agreed that the parties may enter into agreements for alternative  
14 mechanisms, policies and procedures for any of those purposes while this interim renewal contract  
15 is in effect without amending this interim renewal contract.

16 (j) The Contractor and the Contracting Officer concur that at the time of  
17 execution of this interim renewal contract, the Contractor has no non-interest bearing operation and  
18 maintenance deficits accruing from Contract No. 14-06-200-8237A and shall have no further liability  
19 therefor.

20 RATE AND METHOD OF PAYMENT FOR CONVEYANCE  
21 AND OTHER SERVICES BY DWR

22 8. (a) To the extent Project Water is conveyed through State Facilities, payment of  
23 the costs of conveyance of water through the State Facilities shall be made by the Contractor directly  
24 to DWR. The charges and interest rates applicable upon execution of this interim renewal contract

1 (iv) A charge to offset direct fish losses associated with pumping  
2 at the Banks Pumping Plant, pursuant to the December 30, 1986, agreement between the California  
3 Department of Fish and Game and DWR; and

4 (v) The incremental costs, if any, caused by the conveyance and  
5 delivery of Project Water to the Contractor which, unless included in the increased charges to the  
6 Contractor, would result in increased charges to the State Water Project Contractors or increased  
7 costs to DWR.

8 (2) When DWR provides conveyance from the States' share of storage in  
9 San Luis Reservoir, the unit charge shall equal the sum of the following as determined by DWR:

10 (i) The San Luis Facilities portion of the Delta Water Rate;

11 (ii) The net unit energy cost to replace water in San Luis Reservoir;

12 and

13 (iii) The sum of all unit charges provided under subdivision (c)(1)  
14 of this Article.

15 (d) Should DWR deliver Project Water to San Luis Reservoir on behalf of the  
16 Contractor and it is later determined by DWR that capacity to store such Project Water in DWR's  
17 share of San Luis Reservoir is no longer available because of need for such storage to meet SWP  
18 operations and obligations to SWP Contractors and the Contractor cannot take delivery of such  
19 Project Water, DWR shall relieve the Contractor of its obligations to pay DWR for all such Project  
20 Water so transported, stored, and no longer available to the Contractor. DWR shall reimburse the  
21 Contractor for payments which have previously been made to DWR for any such conveyed and  
22 stored supply, less the administrative charge described in (f).

23 (e) If the Contractor is unable, fails or refuses to accept delivery of Project Water  
24 made available by DWR in accordance with this interim renewal contract, such inability, failure or

1 refusal shall not relieve the Contractor of its obligation to pay DWR all associated conveyance costs.

2 (f) The Contractor shall pay DWR a monthly administrative charge specified in  
3 Exhibit "B" for each month in which DWR conveys Project Water to the Contractor and for each  
4 month in which DWR invoices the Contractor for delinquent charges.

#### 5 TRANSFERS OR EXCHANGES OF WATER

6 9. The right to Project Water provided for in this interim renewal contract may be sold,  
7 transferred, or exchanged to others for beneficial uses within the State of California if such sale,  
8 transfer or exchange is authorized by applicable Federal laws, State laws, and applicable guidelines  
9 or regulations then in effect. The right to sell, transfer or exchange Project Water shall include, and  
10 the Contracting Officer and DWR shall apply this Article in a manner that does not impede or  
11 restrict, lawful short-term sales, transfers, or exchanges of the type the Contractor historically carried  
12 out with approval of the Contracting Officer under Contract No. 14-06-200-8237A. No sale, transfer  
13 or exchange of the right to Project Water under this interim renewal contract may take place without  
14 the prior written approval of the Contracting Officer and of DWR, if SWP Facilities are used to  
15 convey such water.

#### 16 APPLICATION OF PAYMENTS AND ADJUSTMENTS

17 10. (a) The amount of any overpayment by the Contractor shall be applied first to any  
18 accrued indebtedness arising out of this interim renewal contract then due and payable by the  
19 Contractor to DWR or United States. Any amount of such overpayment then remaining shall, at the  
20 option of the Contractor, be refunded to the Contractor or credited upon amounts to become due to  
21 the United States, or DWR from the Contractor under the provisions hereof in the following months.  
22 With respect to overpayment, such adjustment shall constitute the sole remedy of the Contractor or  
23 anyone having or claiming to have the right to the use of any of the water supply provided for herein.

24 (b) All advances for miscellaneous costs incurred for work requested by the

1 Contractor pursuant to Article 24 shall be adjusted to reflect the actual costs when the work has been  
2 completed. If the advances exceed the actual costs incurred, the difference will be refunded to the  
3 Contractor. If the actual costs exceed the Contractor's advances, the Contractor will be billed for the  
4 additional costs pursuant to Article 24.

5 (c) In the event that the Contractor contests the accuracy of any statement  
6 submitted to it by DWR pursuant to this interim renewal contract it shall give DWR notice thereof  
7 at least ten (10) days prior to the day upon which payment of the stated amount is due. To the extent  
8 that DWR finds that the Contractor's contentions regarding the statement are correct, it shall revise  
9 the statement accordingly, and the Contractor shall make payment of the revised amounts on or  
10 before the due date. To the extent that DWR does not find the Contractor's contentions to be correct,  
11 or where time is not available for review of such contentions for correctness prior to due date, the  
12 Contractor shall make payment of the stated amounts on or before the due date, but may make the  
13 contested part of such payment under protest and seek to recover the amount thereof from DWR.

14 (d) If in any year, by reason of errors in computation or other causes, there is an  
15 overpayment or underpayment to DWR by the Contractor of its charges provided for herein, the  
16 amount of such overpayment or underpayment shall be credited or debited, as the case may be, to  
17 the Contractor's account for the next succeeding year and DWR shall notify the Contractor thereof  
18 in writing.

#### 19 TEMPORARY REDUCTIONS--RETURN FLOWS

20 11. (a) Subject to: (i) the authorized purposes and priorities of the Project and the  
21 SWP; and (ii) the obligations of the United States and DWR under existing contracts, or renewals  
22 thereof, providing for water deliveries from the Project and the SWP, the Contracting Officer and  
23 DWR shall make all reasonable efforts to optimize Project Water deliveries to the Contractor as  
24 provided in this interim renewal contract.





1 Contractor pursuant to this interim renewal contract. Insofar as determined by the Contracting  
2 Officer to be practicable, the Contracting Officer will, in the event a shortage appears probable,  
3 notify the Contractor of such determinations as soon as possible.

4 (b) If there is a reduction in the total water supply available to the Contractor  
5 during any Year because of errors in physical operations of the Project, drought, or other physical  
6 causes beyond the control of the Contracting Officer or actions taken by the Contracting Officer to  
7 meet legal obligations, no liability shall accrue against the United States or any of its officers, agents,  
8 or employees for any damage, direct or indirect, arising therefrom so long as actions based upon the  
9 opinions or determinations of the Contracting Officer are consistent with the standards of Article 18.

10 (c) In any Year in which there may occur a shortage for any of the reasons  
11 specified in subdivision (b) of this Article, the Contracting Officer shall apportion the available  
12 Project Water supply among the Contractor and others entitled, under existing contracts and future  
13 contracts (to the extent such future contracts are permitted under subsections (a) and (b) of Section  
14 3404 of the CVPIA) and renewals thereof, to receive Project Water consistent with the contractual  
15 obligations of the United States.

16 (d) DWR shall make all reasonable efforts consistent with sound fiscal policies,  
17 and proper operating procedures to maintain the necessary facilities and to deliver Project Water to  
18 the Contractor in accordance with the provisions of this interim renewal contract in such a manner  
19 and at such times as such Project Water is scheduled by the Contractor: Provided, That such Project  
20 Water has been furnished to DWR by the United States: And Provided, further, That in no event  
21 shall any liability accrue against DWR or any of its officers, agents or employees for damage, direct  
22 or indirect for failure to deliver Project Water to the Contractor on account of errors in operation,  
23 drought, or any other cause beyond the control of DWR. Inasmuch as DWR is providing only  
24 conveyance and storage services under this agreement, it bears no responsibility for the availability

1 of Project Water for such conveyance.

2 (e) If any of the parties to this interim renewal contract are precluded in whole  
3 or in part from delivering, conveying or receiving Project Water as a result of uncontrollable forces,  
4 all parties shall be relieved from the obligation to the extent they are reasonably unable to complete  
5 the obligation due to the uncontrollable force. Uncontrollable force shall include, but is not limited  
6 to, earthquakes, fires, tornados, floods and other natural disasters. Each party shall be responsible  
7 for payment of any costs incurred on its behalf by the other party(ies) before the occurrence of the  
8 uncontrollable force.

9 UNAVOIDABLE GROUNDWATER PERCOLATION

10 13. The Contractor shall not be deemed to have furnished Irrigation Water to Excess  
11 Lands or Ineligible Lands within the meaning of this interim renewal contract if such lands are  
12 irrigated with groundwater that reaches the underground strata as an unavoidable result of the  
13 furnishing of Irrigation Water by the Contractor to Eligible Lands.

14 COMPLIANCE WITH FEDERAL RECLAMATION LAW

15 14. This interim renewal contract shall be implemented in accordance with all applicable  
16 provisions of Federal Reclamation law, as amended and supplemented.

17 WATER AND AIR POLLUTION CONTROL

18  
19 15. The Contractor, in carrying out this interim renewal contract, shall comply with all  
20 applicable water and air pollution laws and regulations of the United States and the State of  
21 California, and shall obtain all required permits or licenses from the appropriate Federal, State, or  
22 local authorities.

23 QUALITY OF WATER

24 16. (a) Project and State Facilities used to make available and deliver Project Water  
25 to the Contractor pursuant to this interim renewal contract shall be operated and maintained to enable  
26 the United States and DWR to make available and deliver Project Water to the Contractor in

1 accordance with the water quality standards specified in subsection 2(b) of the Act of August 26,  
2 1937 (50 Stat. 865), as added by Section 101 of the Act of October 27, 1986 (100 Stat. 3050) or  
3 other existing Federal laws. The United States and DWR are under no obligation to construct or  
4 furnish water treatment facilities to maintain or to better the quality of Project Water furnished to  
5 the Contractor pursuant to this interim renewal contract. The United States and DWR do not warrant  
6 the quality of Project Water made available and delivered to the Contractor pursuant to this interim  
7 renewal contract.

8 (b) The operation and maintenance of Project Facilities shall be performed in such  
9 manner as is practicable to maintain the quality of raw water made available through such facilities  
10 at the highest level reasonably attainable as determined by the Contracting Officer. The Contractor  
11 shall be responsible for compliance with all State and Federal water quality standards applicable to  
12 surface and subsurface agricultural drainage discharges generated through the use of Federal or  
13 Contractor facilities or Project Water provided by the Contractor within the Contractor's boundaries.

14 This Article shall not affect or alter any legal obligations of the Secretary to provide drainage  
15 services.

16 WATER ACQUIRED BY THE CONTRACTOR OTHER THAN  
17 FROM THE UNITED STATES

18 17. Water or water rights now owned or hereafter acquired by the Contractor other than  
19 from the United States and Irrigation Water furnished pursuant to the terms of this interim renewal  
20 contract may be simultaneously transported through the same distribution facilities of the Contractor  
21 subject to the following: (i) if the facilities utilized for commingling Irrigation Water and non-  
22 Project water were constructed without funds made available pursuant to Federal Reclamation law,  
23 the provisions of Federal Reclamation law will be applicable only to the Landholders of lands which  
24 receive Irrigation Water; (ii) the eligibility of land to receive Irrigation Water must be established

1 through the certification requirements as specified in the Acreage Limitation Rules and Regulations  
2 (43 CFR Part 426); (iii) the water requirements of Eligible Lands within the Contractor's boundaries  
3 can be established and the quantity of Irrigation Water to be utilized is less than or equal to the  
4 quantity necessary to irrigate such Eligible Lands; and (iv) if the facilities utilized for commingling  
5 Irrigation Water and non-Project water are constructed with funds made available pursuant to Federal  
6 Reclamation law, the non-Project water will be subject to Federal Reclamation law, until such funds  
7 have been repaid. Prior written approval from DWR must be obtained by the Contractor prior to  
8 conveyance of such water in State Facilities.

#### 9 OPINIONS AND DETERMINATIONS

10 18. (a) Where the terms of this interim renewal contract provide for actions to be  
11 based upon the opinion or determination of either party to this interim renewal contract, said terms  
12 shall not be construed as permitting such action to be predicated upon arbitrary, capricious, or  
13 unreasonable opinions or determinations. Both parties, notwithstanding any other provisions of this  
14 interim renewal contract, expressly reserve the right to seek relief from and appropriate adjustment,  
15 including monetary damages, for any such arbitrary, capricious or unreasonable opinion or  
16 determination. Each opinion or determination by either party shall be provided in a timely manner.

17 (b) The Contracting Officer and DWR shall have the right to make determinations  
18 necessary to administer this interim renewal contract that are consistent with the expressed and  
19 implied provisions of this interim renewal contract, the laws of the United States and the State of  
20 California, and the rules and regulations promulgated by the Secretary and DWR. Such  
21 determinations shall be made in consultation with the Contractor to the extent reasonably practicable.

#### 22 UNITED STATES CHARGES FOR DELINQUENT PAYMENTS

23  
24 19. (a) The Contractor shall be subject to interest, administrative and penalty charges  
25 on delinquent installments or payments. When a payment is not received by the due date, the  
26 Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date.

1 When a payment becomes sixty (60) days delinquent, the Contractor shall pay an administrative  
2 charge to cover additional costs of billing and processing the delinquent payment. When a payment  
3 is delinquent ninety (90) days or more, the Contractor shall pay an additional penalty charge of six  
4 percent (6%) per year for each day the payment is delinquent beyond the due date. Further, the  
5 Contractor shall pay any fees incurred for debt collection services associated with a delinquent  
6 payment.  
7

8 (b) The interest charge rate shall be the greater of the rate prescribed quarterly in  
9 the Federal Register by the Department of the Treasury for application to overdue payments, or the  
10 interest rate of one-half of one percent (0.5%) per month prescribed by Section 6 of the Reclamation  
11 Project Act of 1939 (Public Law 76-260). The interest charge rate shall be determined as of the due  
12 date and remain fixed for the duration of the delinquent period.  
13

14 (c) When a partial payment on a delinquent account is received, the amount  
15 received shall be applied, first to the penalty, second to the administrative charges, third to the  
16 accrued interest, and finally to the overdue payment.  
17

#### 18 EQUAL OPPORTUNITY

19

20 20. During the performance of this interim renewal contract, the Contractor agrees as  
21 follows:

22 (1) The Contractor will not discriminate against any employee or applicant for  
23 employment because of race, color, religion, sex, or national origin. The Contractor will take  
24 affirmative action to ensure that applicants are employed, and that employees are treated during  
25 employment, without regard to their race, color, religion, sex, or national origin. Such action shall  
26 include, but not be limited to, the following: Employment, upgrading, demotion, or transfer;  
27 recruitment or recruitment advertising; layoff or termination, rates of payment or other forms of  
28 compensation; and selection for training, including apprenticeship. The Contractor agrees to post  
29 in conspicuous places, available to employees and applicants for employment, notices to be provided  
30 by the Contracting Officer setting forth the provisions of this nondiscrimination clause.  
31

32 (2) The Contractor will, in all solicitations or advertisements for employees  
33 placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration  
34 for employment without discrimination because of race, color, religion, sex, or national origin.  
35

36 (3) The Contractor will send to each labor union or representative of workers with  
37 which it has a collective bargaining agreement or other contract or understanding, a notice, to be  
38 provided by the Contracting Officer, advising the said labor union or workers' representative of the  
39 Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and  
40 shall post copies of the notice in conspicuous places available to employees and applicants for  
41 employment.  
42

43 (4) The Contractor will comply with all provisions of Executive Order No. 11246  
44 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the  
45 Secretary of Labor.  
46

47 (5) The Contractor will furnish all information and reports required by said

1 amended Executive Order and by the rules, regulations, and orders of the Secretary of Labor, or  
2 pursuant thereto, and will permit access to its books, records, and accounts by the Contracting  
3 Officer and the Secretary of Labor for purposes of investigation to ascertain compliance with such  
4 rules, regulations, and orders.

5  
6 (6) In the event of the Contractor's noncompliance with the nondiscrimination  
7 clauses of this interim renewal contract or with any of the said rules, regulations, or orders, this  
8 interim renewal contract may be canceled, terminated, or suspended, in whole or in part, and the  
9 Contractor may be declared ineligible for further Government contracts in accordance with  
10 procedures authorized in said amended Executive Order, and such other sanctions may be imposed  
11 and remedies invoked as provided in said Executive Order, or by rule, regulation, or order of the  
12 Secretary of Labor, or as otherwise provided by law.

13  
14 (7) The Contractor will include the provisions of paragraphs (1) through (7) in  
15 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the  
16 Secretary of Labor issued pursuant to Section 204 of said amended Executive Order, so that such  
17 provisions will be binding upon each subcontractor or vendor. The Contractor will take such action  
18 with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a  
19 means of enforcing such provisions, including sanctions for noncompliance: Provided, however,  
20 That in the event the Contractor becomes involved in, or is threatened with, litigation with a  
21 subcontractor or vendor as a result of such direction, the Contractor may request the United States  
22 to enter into such litigation to protect the interests of the United States.

23  
24 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

25  
26 21. (a) The obligation of the Contractor to pay the United States and DWR as  
27 provided in this interim renewal contract is a general obligation of the Contractor notwithstanding  
28 the manner in which the obligation may be distributed among the Contractor's water users and  
29 notwithstanding the default of individual water users in their obligations to the Contractor.

30 (b) If in any year the Contractor fails or is unable to raise sufficient funds by other  
31 means, the governing body of the Contractor shall levy upon all property within the Contractor's  
32 boundary not exempt from taxation, a special assessment sufficient to provide for all payments due  
33 the United States and DWR under this interim renewal contract.

34 (c) Assessments levied by the governing body of the Contractor pursuant to  
35 subdivision (b) of this article shall be enforced and collected by all officers of the Contractor charged  
36 with the duty of enforcing and collecting assessments levied by the Contractor.

37 (d) All money collected by way of special assessments under this article for  
38 payments due DWR shall be kept in a separate fund by the treasurer or other officer of the Contractor

1 charged with the safekeeping and disbursement of funds of the Contractor, and, upon the written  
2 demand of DWR, the treasurer or other officer shall pay over to DWR all money in his possession  
3 or control then due DWR under this interim renewal contract, which money shall be applied by  
4 DWR to the satisfaction of the amount due under this interim renewal contract.

5 (e) In the event of failure, neglect, or refusal of any officer of the Contractor to  
6 levy any assessment necessary to provide payment by the Contractor under this interim renewal  
7 contract, to enforce or to collect the assessment, or to pay over to the United States or DWR any  
8 money then due collected on the assessment, either or both DWR and the United States may take  
9 such action in a court of competent jurisdiction as they deem necessary to compel the performance  
10 in their proper sequence of all such duties. Action taken pursuant hereto shall not deprive DWR or  
11 United States or limit any remedy provided by this interim renewal contract or by law for the  
12 recovery of money due or which may become due under this interim renewal contract.

13 (f) The payment of charges becoming due hereunder is a condition precedent to  
14 receiving benefits under this interim renewal contract. The United States and DWR shall not make  
15 water available to the Contractor through Federal or State Project facilities during any period in  
16 which the Contractor may be in arrears in the advance payment of water rates due the United States.  
17 The Contractor shall not furnish water made available pursuant to this interim renewal contract for  
18 lands or parties which are in arrears in the advance payment of water rates levied or established by  
19 the Contractor.

#### 20 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

21  
22 22. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964 (42  
23 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the Age  
24 Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights laws, as  
25 well as with their respective implementing regulations and guidelines imposed by the U.S.  
26 Department of the Interior and/or Bureau of Reclamation.

27  
28 (b) These statutes require that no person in the United States shall, on the grounds  
29 of race, color, national origin, handicap, or age, be excluded from participation in, be denied the  
30 benefits of, or be otherwise subjected to discrimination under any program or activity receiving  
31 financial assistance from the Bureau of Reclamation. By executing this interim renewal contract,  
32 the Contractor agrees to immediately take any measures necessary to implement this obligation,  
33 including permitting officials of the United States to inspect premises, programs, and documents.  
34

35 (c) The Contractor makes this agreement in consideration of and for the purpose



1 of obtaining any and all Federal grants, loans, contracts, property discounts or other Federal financial  
2 assistance extended after the date hereof to the Contractor by the Bureau of Reclamation, including  
3 installment payments after such date on account of arrangements for Federal financial assistance  
4 which were approved before such date. The Contractor recognizes and agrees that such Federal  
5 assistance will be extended in reliance on the representations and agreements made in this Article,  
6 and that the United States reserves the right to seek judicial enforcement thereof.

7  
8 PRIVACY ACT COMPLIANCE  
9

10 23. (a) The Contractor shall comply with the Privacy Act of 1974 (5 U.S.C. 552a)  
11 (the Act) and the Department of the Interior rules and regulations under the Act (43 CFR 2.45 et  
12 seq.) in maintaining landholder acreage certification and reporting records, required to be submitted  
13 to the Contractor for compliance with Sections 206 and 228 of the Reclamation Reform Act of 1982  
14 (96 Stat. 1266), and pursuant to 43 CFR 426.10.

15  
16 (b) With respect to the application and administration of the criminal penalty  
17 provisions of the Act (5 U.S.C. 552a(I)), the Contractor and the Contractor's employees responsible  
18 for maintaining the certification and reporting records referenced in (a) of this Article are considered  
19 to be employees of the Department of the Interior. See 5 U.S.C. 552a(m).

20  
21 (c) The Contracting Officer or a designated representative shall provide the  
22 Contractor with current copies of the Interior Department Privacy Act regulations and the Bureau  
23 of Reclamation Federal Register Privacy Act System of Records Notice (Acreage Limitation--  
24 Interior, Reclamation-31) which govern the maintenance, safeguarding, and disclosure of  
25 information contained in the landholder's certification and reporting records.

26  
27 (d) The Contracting Officer shall designate a full-time employee of the Bureau  
28 of Reclamation to be the System Manager who shall be responsible for making decisions on denials  
29 pursuant to 43 CFR 2.61 and 2.64 amendment requests pursuant to 43 CFR 2.72. The Contractor  
30 is authorized to grant requests by individuals for access to their own records.

31  
32 (e) The Contractor shall forward promptly to the System Manager each proposed  
33 denial of access under 43 CFR 2.64; and each request for amendment of records filed under 43 CFR  
34 2.71; notify the requester accordingly of such referral; and provide the System Manager with  
35 information and records necessary to prepare an appropriate response to the requester. These  
36 requirements do not apply to individuals seeking access to their own certification and reporting  
37 forms filed with the Contractor pursuant to 43 CFR 426.10, unless the requester elects to cite the  
38 Privacy Act as a basis for the request.

39 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

40 24. In addition to all other payments to be made by the Contractor pursuant to this interim  
41 renewal contract, the Contractor shall pay to the United States, within sixty (60) days after receipt  
42 of a bill and detailed statement submitted by the Contracting Officer to the Contractor for such

1 specific items of direct cost incurred by the United States for work requested by the Contractor  
2 associated with this interim renewal contract plus a percentage of such direct costs for administrative  
3 and general overhead in accordance with applicable Bureau of Reclamation policy and procedures.  
4 All such amounts referred to in this Article shall not exceed the amount agreed to in writing in  
5 advance by the Contractor. This Article shall not apply to costs for routine contract administration.

#### 6 WATER CONSERVATION

7 25. (a) Prior to the delivery of water provided from or conveyed through Federally  
8 constructed or Federally financed facilities pursuant to this interim renewal contract, the Contractor  
9 shall be implementing an effective water conservation program based on the Contractor's water  
10 conservation plan that has been determined by the Contracting Officer to meet the conservation and  
11 efficiency criteria established under Federal law. The water conservation program shall contain  
12 definite water conservation objectives, appropriate economically feasible water conservation  
13 measures, and time schedules for meeting those objectives.

14 (b) Should the combined amount of M&I Water delivered pursuant to subdivision  
15 (a) of Article 3 during the term of this interim renewal contract equal or exceed 2,000 acre-feet, the  
16 Contractor shall implement the Best Management Practices identified by and the time frames issued  
17 by the California Urban Water Conservation Council unless any such practice is determined by the  
18 Contracting Officer to be inappropriate for the Contractor.

19 (c) As part of the water conservation program, the Contractor shall develop and  
20 be implementing a tiered block water pricing program that promotes conservation and the efficient  
21 management of Project Water during the term of this contract. Such pricing program for Project  
22 Water shall take into account all relevant circumstances, including without limitation, water  
23 shortages imposed under this interim renewal contract and the availability and cost of the  
24 Contractor's and individual water user's non-Project alternative sources of supply, including

1 groundwater and other non-Project water supplies, so that the Contractor's pricing structure provides  
2 incentives for conservation and the efficient management of overall water supply available to water  
3 users served by the Contractor. Provided, That no such tiered block water pricing program need be  
4 implemented by the Contractor if the Contracting Officer determines, based on information provided  
5 by the Contractor, that (i) such a pricing structure will not result in significant conservation of water  
6 available for use within the Contractor's boundaries, including groundwater or (ii) other pricing  
7 program, conservation or management measures are more appropriate and/or will result in  
8 comparable or better conservation of the water supplies available within the Contractor's boundaries.  
9 Provided further, If the Contractor fails to, or elects not to, comply with this subdivision of Article  
10 25, then any subsequent interim renewal contract shall contain a tiered pricing contractual provision  
11 pursuant to subsection (d) of Section 3405 of the CVPIA.

12 (d) The Contractor shall submit to the Contracting Officer by December 31, of  
13 each Calendar Year, an annual report on the status of its implementation of the water conservation  
14 program.

#### 15 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

16 26. Except as specifically provided in Article 17 of this interim renewal contract, the  
17 provisions of this interim renewal contract shall not be applicable to or affect water or water rights  
18 now owned or hereafter acquired by the Contractor or any user of such water within the Contractor's  
19 boundaries from other than the United States by the Contractor. Any such water shall not be  
20 considered Project Water under this interim renewal contract. In addition, this interim renewal  
21 contract shall not be construed as limiting or curtailing any rights which the Contractor or any water  
22 user within the Contractor's boundaries acquires or has available under any other contract pursuant  
23 to the Federal Reclamation law.

1                   OPERATION AND MAINTENANCE BY NON-FEDERAL ENTITY

2           27.   (a)    The responsibility for performing and, in some cases funding the O&M of all  
3 or any portion of the Project facilities may be transferred to an Operating Non-Federal Entity by one  
4 or more separate agreements between the United States and the Operating Non-Federal Entity. Any  
5 such separate agreement(s) require the Operating Non-Federal Entity to perform the O&M in  
6 compliance with the provisions of this interim renewal contract and shall not interfere with the rights  
7 or obligations of the Contractor or the United States hereunder.

8           (b)    If so notified in writing by the Contracting Officer, the Contractor shall pay  
9 directly to such Operating Non-Federal Entity, in accordance with such notice: (i) That portion of  
10 the Rate(s) to be paid the United States pursuant to this interim renewal contract which the  
11 Contracting Officer determines is the Contractor's appropriate share of the O&M of the Project  
12 facilities maintained by and/or transferred to the Operating Non-Federal Entity, and (ii) All  
13 appropriate additional amounts charged or assessed by the Operating Non-Federal Entity for the  
14 O&M of Project facility. Such direct payments to such Operating Non-Federal Entity shall not  
15 relieve the Contractor of its obligation to pay directly to the United States for its allocated share of  
16 remaining costs for the Project.

17                   CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

18  
19           28.    The expenditure or advance of any money or the performance of any obligation of the  
20 United States under this interim renewal contract shall be contingent upon appropriation or allotment  
21 of funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any  
22 obligations under this interim renewal contract. No liability shall accrue to the United States in case  
23 funds are not appropriated or allotted.

24  
25                   BOOKS, RECORDS, AND REPORTS

26  
27           29.    The Contractor shall establish and maintain accounts and other books and records  
28 pertaining to administration of the terms and conditions of this interim renewal contract, including:  
29 the Contractor's financial transactions, water supply data, and Project land and right-of-way  
30 agreements; the water users' land-use (crop census), landownership, land-leasing and water use data;  
31 and other matters that the Contracting Officer may require. Reports thereon shall be furnished to the

1 Contracting Officer in such form and on such date or dates as the Contracting Officer may require.  
2 Subject to applicable Federal laws and regulations, each party to this interim renewal contract shall  
3 have the right during office hours to examine and make copies of the other party's books and records  
4 relating to matters covered by this interim renewal contract.  
5

6 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED  
7

8 30. (a) The provisions of this interim renewal contract shall apply to and bind the  
9 successors and assigns of the parties hereto, but no assignment or transfer of this interim renewal  
10 contract or any right or interest therein shall be valid until approved in writing by the Contracting  
11 Officer.

12 (b) No assignment or transfer of any rights to use State Facilities authorized by  
13 this interim renewal contract shall be valid without advance written approval by DWR.

14 (c) The assignment of any right or interest in this interim renewal contract by a  
15 party shall not interfere with the rights or obligations of the other parties to this interim renewal  
16 contract absent the written concurrence of said other parties.

17 SEVERABILITY

18 31. In the event that a person or entity who is neither (i) a party to a Project interim  
19 renewal contract, nor (ii) a person or entity that receives Project Water from a party to a Project  
20 interim renewal contract, nor (iii) an association or other form of organization whose primary  
21 function is to represent parties to Project interim renewal contracts, brings an action in a court of  
22 competent jurisdiction challenging the legality or enforceability of a provision included in this  
23 interim renewal contract and said person, entity, association, or organization obtains a final court  
24 decision holding that such provision is legally invalid or unenforceable and the Contractor has not  
25 intervened in that lawsuit in support of the plaintiff(s), the parties to this interim renewal contract  
26 shall use their best efforts to (i) within thirty (30) days of the date of such final court decision  
27 identify by mutual agreement the provisions in this interim renewal contract which must be revised,  
28 and (ii) within three (3) months thereafter promptly agree on the appropriate revision(s). The time  
29 periods specified above may be extended by mutual agreement of the parties. Pending the

1 completion of the actions designated above, to the extent it can do so without violating any  
2 applicable provisions of law, the United States shall continue to make the quantities of Project Water  
3 specified in this interim renewal contract available to the Contractor pursuant to the provisions of  
4 this interim renewal contract which were not found to be legally invalid or unenforceable in the final  
5 court decision.

6 OFFICIALS NOT TO BENEFIT  
7

8 32. No Member of or Delegate to Congress, Resident Commissioner or official of the  
9 Contractor shall benefit from this interim renewal contract other than as a water user or landowner  
10 in the same manner as other water users or landowners.  
11

12 CHANGES IN CONTRACTOR'S BOUNDARIES  
13

14 33. While this interim renewal contract is in effect, no change may be made in the  
15 Contractor's boundaries, by inclusion or exclusion of lands, dissolution, consolidation, merger or  
16 otherwise, except upon the Contracting Officer's written consent.  
17

18 NOTICES  
19

20 34. Any notice, demand, or request authorized or required by this interim renewal  
21 contract shall be deemed to have been given, on behalf of the parties, when mailed, postage prepaid,  
22 or delivered to the Area Manager, South-Central California Area Office, United States Bureau of  
23 Reclamation, 2666 North Grove Industrial Drive, Fresno, California 93727-1551; the Board of  
24 Directors, Lower Tule River Irrigation District, P.O. Box 4388, Woodville, California 93258; and  
25 the Chief, State Water Project Analysis Office, Department of Water Resources, P.O. Box 942836,  
26 Sacramento, California 94236-0001. The designation of the addressee or the address may be  
27 changed by notice given in the same manner as provided in this Article for other notices.

1 IN WITNESS WHEREOF, the parties hereto have executed this interim renewal contract as  
2 of the day and year first above written.  
3

4 THE UNITED STATES OF AMERICA  
5  
6

7 By: /s/ Kirk C. Rodgers  
8 Acting Regional Director, Mid-Pacific Region  
9 Bureau of Reclamation

10  
11 Approved as to Legal Form and  
12 Sufficiency:  
13

14 THE DEPARTMENT OF WATER RESOURCES  
15 OF THE STATE OF CALIFORNIA

16 By: /s/ David B. Anderson  
17 For Chief Counsel,  
18 Department of Water Resources  
19

20 By: /s/ Thomas M. Hannigan  
21 Director,  
22 Department of Water Resources

23 (SEAL)

24 LOWER TULE RIVER IRRIGATION DISTRICT

25 By: /s/ Benjamin Serafin V.P.  
26 President of the Board of Directors

27 Attest:

28  
29  
30 By: /s/ Vonnie Collier  
31 Secretary of the Board of Directors  
32

APPROVED AS TO LEGAL  
FORM AND SUFFICIENCY  
  
/s/ James E. Turner  
  
OFFICE OF REGIONAL SOLICITOR  
DEPARTMENT OF THE INTERIOR

***Appendix B-4 – Lower Tule River Irrigation District Interim Renewal Contract (IR-18)***



1 UNITED STATES  
2 DEPARTMENT OF THE INTERIOR  
3 BUREAU OF RECLAMATION  
4 Central Valley Project, California

5 INTERIM RENEWAL CONTRACT AMONG THE UNITED STATES,  
6 THE DEPARTMENT OF WATER RESOURCES  
7 OF THE STATE OF CALIFORNIA,  
8 AND  
9 LOWER TULE RIVER IRRIGATION DISTRICT  
10 PROVIDING FOR PROJECT WATER SERVICE  
11 FROM THE SAN LUIS UNIT AND DELTA DIVISION

12 THIS CONTRACT, made this 28<sup>TH</sup> day of FEBRUARY, 2020,  
13 in pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or  
14 supplementary thereto, including, but not limited to, the acts of August 26, 1937 (50 Stat. 844),  
15 as amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented,  
16 July 2, 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), as  
17 amended, and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all collectively  
18 hereinafter referred to as Federal Reclamation law, among the UNITED STATES OF  
19 AMERICA, hereinafter referred to as the United States, the DEPARTMENT OF WATER  
20 RESOURCES OF THE STATE OF CALIFORNIA, hereinafter referred to as DWR, and the  
21 LOWER TULE RIVER IRRIGATION DISTRICT, hereinafter referred to as the Contractor, a  
22 public agency of the State of California, duly organized, existing, and acting pursuant to the laws  
23 thereof;

24 WITNESSETH, That:

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EXPLANATORY RECITALS

WHEREAS, the United States, DWR, and the Contractor entered into interim renewal Contract (long-form interim renewal contract) No. 14-06-200-8237A-IR1 which provided for the continued water service to the Contractor following expiration of Contract No. 14-06-200-8237A; and

WHEREAS, the last long-form interim renewal contract between the United States, DWR, and the Contractor is Contract No. 14-06-200-8237A-IR5, hereinafter referred to as IR5; and

WHEREAS, the United States, DWR, and the Contractor have entered into successive renewals of IR5, the most recent of which is Contract No. 14-06-200-8237A-IR17, hereinafter referred to as IR17, effective March 1, 2018, through February 29, 2020; and

WHEREAS, the United States, DWR, and the Contractor have made significant progress in their negotiations of a long-term renewal contract, believe that further negotiations on the long-term renewal contract would be beneficial, and mutually commit to continue to negotiate to seek to reach agreement, but anticipate that the environmental documentation necessary for execution of any long-term renewal contract may be delayed for reasons beyond the control of the parties; and

WHEREAS, the Contractor has requested a subsequent interim renewal contract pursuant to IR17; and

WHEREAS, the United States has determined that the Contractor has to date fulfilled all of its obligations under IR17; and

WHEREAS, the United States and DWR are willing to renew IR17 pursuant to the terms and conditions set forth below;

48 NOW, THEREFORE, in consideration of the mutual and dependent covenants  
49 herein contained, it is hereby mutually agreed by the parties hereto as follows:

50 RENEWAL AND REVISION OF  
51 CONTRACT NO. 14-06-200-8237A-IR17

52 1. Except as specifically modified by this Contract, all provisions of IR17 are  
53 renewed with the same force and effect as if they were included in full text with the exception of  
54 Article 1 of IR17 thereof, which is revised as follows:

55 (a) The first sentence in subdivision (a) of Article 1 of IR17 is replaced with  
56 the following language: "This Contract shall be effective from March 1, 2020, and shall remain  
57 in effect through February 28, 2022, and thereafter will be renewed as described in Article 2 of  
58 IR5 if a long-term renewal contract has not been executed with an effective commencement date  
59 of March 1, 2022."

60 (b) Subdivision (b) of Article 1 of IR17 is amended by deleting the date  
61 "February 15, 2020," and replacing same with the date "February 15, 2022."

62 (c) Subdivision (c) of Article 1 of IR17 is amended by deleting the dates  
63 "February 1, 2020", "February 15, 2020", and "February 29, 2020", respectively, and  
64 replacing same with the dates "February 1, 2022", "February 15, 2022", and "February 28,  
65 2022", respectively.

66 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of

67 the day and year first above written.

68

APPROVED AS TO LEGAL  
FORM AND SUFFICIENCY  
*Brenda Hughes*  
OFFICE OF REGIONAL SOLICITOR  
DEPARTMENT OF THE INTERIOR

UNITED STATES OF AMERICA

69

70

71

By: *[Signature]*  
Regional Director, Mid-Pacific Region  
Bureau of Reclamation

72 Approved as to Legal Form and  
73 Sufficiency:

DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF CALIFORNIA

74

75

76

\_\_\_\_\_  
Chief Counsel  
Department of Water Resources

By: \_\_\_\_\_  
Director  
Department of Water Resources

77 (SEAL)

78

LOWER TULE RIVER IRRIGATION DISTRICT

79

80

81

Attest:  
*[Signature]*  
Secretary

By: *[Signature]*  
President, Board of Directors

82


83

67 the day and year first above written.

68 UNITED STATES OF AMERICA

69 By: \_\_\_\_\_  
70 Regional Director, Mid-Pacific Region  
71 Bureau of Reclamation

72 Approved as to Legal Form and  
73 Sufficiency: DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF CALIFORNIA

74   
75 Chief Counsel  
76 Department of Water Resources

By:   
Director  
Department of Water Resources

77 (SEAL)  
78

LOWER TULE RIVER IRRIGATION DISTRICT

79 By: \_\_\_\_\_  
80 President, Board of Directors  
81

Attest:

82 \_\_\_\_\_  
83 Secretary

**LOWER TULE RIVER IRRIGATION DISTRICT**

**RESOLUTION NO. 2020-2-1**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF LOWER TULE RIVER  
IRRIGATION DISTRICT AUTHORIZING EXECUTION OF INTERIM  
RENEWAL CONTRACT NO. 14-06-200-8237A-IR18 AND  
FILING A NOTICE OF EXEMPTION**

---

**WHEREAS**, the Lower Tule River Irrigation District (District) entered into Contract No. 14-06-200-8237A, as amended, with the United States and the State of California providing for water service from the Central Valley Project from September 12, 1975, until February 29, 1996 (Original Contract); and

**WHEREAS**, the Original Contract provided for delivery of 31,102 acre feet of water diverted from the Sacramento-San Joaquin Delta through the California Aqueduct to the Cross Valley Canal for exchange or direct delivery to the District's distribution system; and

**WHEREAS**, the Original Contract was subsequently renewed pursuant to a series of interim renewal contracts as required by the Central Valley Project Improvement Act; and

**WHEREAS**, it is in the best interest of the District, the State of California and the United States to enter into a further interim renewal contract which provides for continued water service on the same material terms and conditions;

**WHEREAS**, the United States Bureau of Reclamation has provided a further interim renewal contract, Contract No. 14-06-200-8237A-IR18, providing for continued water service from March 1, 2020 through February 28, 2022, on the same material terms and conditions; and

**WHEREAS**, the Board of Directors of the District has considered approval of the execution of Contract No. 14-06-200-8237A-IR18 under the California Environmental Quality Act (CEQA) as outlined in the *Findings of the Board of Directors of the Lower Tule River Irrigation District Regarding Approval of Reclamation Contract No. 14-06-200-8237A-IR18*, attached hereto as **Exhibit A**.

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of Directors of Lower Tule River Irrigation District as follows:

1. The Board President is authorized to execute Reclamation Contract No. 14-06-200-8237A-IR18 on behalf of the District; and
2. After due consideration the Board of Directors of the District adopts the findings as stated and contained in the *Findings of the Board of Directors of the Lower Tule River Irrigation District Regarding Approval of Reclamation Contract Nos. 14-06-200-8237A-IR18*, attached hereto as **Exhibit A**.
3. The General Manager is authorized to file a Notice of Exemption.

**PASSED, APPROVED AND ADOPTED** by the Board of Directors of the Lower Tule River Irrigation District this 11<sup>th</sup> day of February, 2020.

AYES: *Fernandes, Barcellos, Costa, Garcia, Pitigliano*

NOES: *0*

ABSENT: *0*

ABSTAIN: *0*

**CERTIFICATE OF RESOLUTION**

We, the undersigned, hereby certify as follows:

1. That we are the President and Secretary of the LOWER TULE RIVER IRRIGATION DISTRICT; and

2. That the foregoing resolution, consisting of 2 pages, including this page, is a true and correct copy of a resolution of the Board of Directors of the Lower Tule River Irrigation District passed at the meeting of the Board of Directors held on February 11, 2020, at its headquarters at 357 E. Olive Ave, Tipton, California.

IN WITNESS WHEREOF, we have signed this certificate this 11th day of February, 2020, at Tipton, California.



Gary Fernandes  
President of the Board of Directors



Eric Limas  
Secretary

**APPENDIX C**

**AB 52 TRIBAL CONSULTATION**



# Local Government Tribal Consultation List Request

## Native American Heritage Commission

1550 Harbor Blvd, Suite 100  
West Sacramento, CA 95691  
916-373-3710  
916-373-5471 – Fax  
[nahc@nahc.ca.gov](mailto:nahc@nahc.ca.gov)

### Type of List Requested

CEQA Tribal Consultation List (AB 52) – *Per Public Resources Code § 21080.3.1, subs. (b), (d), (e) and 21080.3.2*

General Plan (SB 18) - *Per Government Code § 65352.3.*

#### Local Action Type:

\_\_\_ General Plan \_\_\_ General Plan Element \_\_\_ General Plan Amendment

\_\_\_ Specific Plan \_\_\_ Specific Plan Amendment \_\_\_ Pre-planning Outreach Activity

### Required Information

Project Title: \_\_\_\_\_

Local Government/Lead Agency: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

#### Specific Area Subject to Proposed Action

County: \_\_\_\_\_ City/Community: \_\_\_\_\_

#### Project Description:

### Additional Request

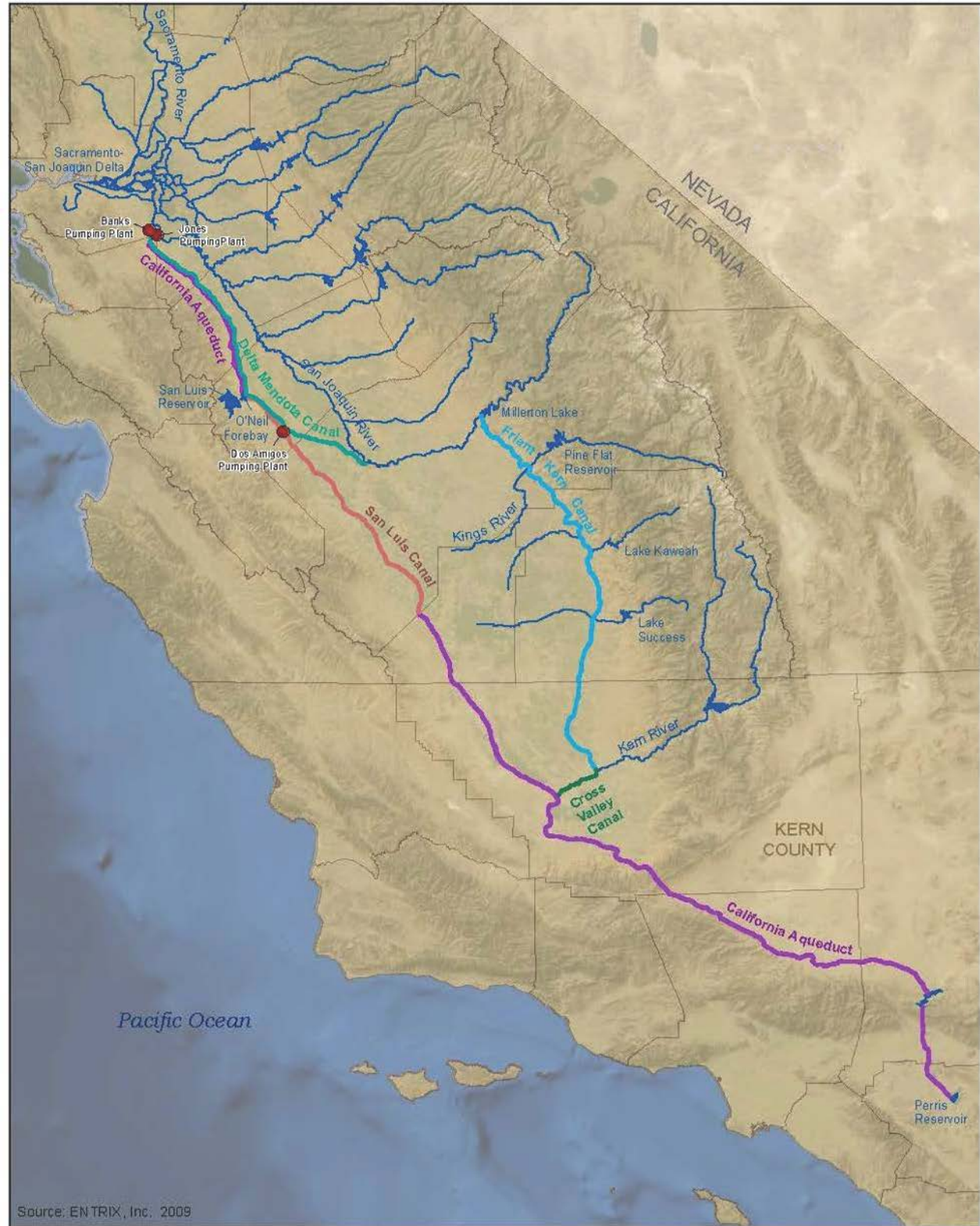
Sacred Lands File Search - *Required Information:*

USGS Quadrangle Name(s): \_\_\_\_\_

Township: \_\_\_\_\_ Range: \_\_\_\_\_ Section(s): \_\_\_\_\_

**Quad Names by County**

<b>Alameda</b>	<b>Los Angeles</b>
CLIFTON COURT FOREBAY	BLACK MOUNTAIN
MIDWAY	DEL SUR
<b>Fresno</b>	JUNIPER HILLS
ACADEMY	LAKE HUGHES
BROADVIEW FARMS	LANCASTER WEST
CALFLAX	LIEBRE MOUNTAIN
CANTUA CREEK	LITTLEROCK
CHANEY RANCH	MESCAL CREEK
CHOUNET RANCH	PALMDALE
DOMENGINE RANCH	RITTER RIDGE
FIREBAUGH	VALYERMO
HAMMONDS RANCH	WHITAKER PEAK
HARRIS RANCH	<b>Madera</b>
HURON	FRIANT
LA CIMA	MILLERTON LAKE WEST
LEVIS	<b>Merced</b>
MENDOTA DAM	CHARLESTON SCHOOL
MONOCLINE RIDGE	DOS PALOS
ORANGE COVE NORTH	LAGUNA SECA RANCH
ORANGE COVE SOUTH	ORTIGALITA PEAK NW
PIEDRA	OXALIS
ROUND MOUNTAIN	SAN LUIS DAM
TRES PICOS FARMS	VOLTA
WAHTOKE	<b>Riverside</b>
<b>Kern</b>	PERRIS
ANTELOPE PLAIN	RIVERSIDE EAST
BELRIDGE	SUNNYMEAD
BUENA VISTA LAKEBED	<b>San Bernardino</b>
COAL OIL CANYON	BALDY MESA
CONNER SW	HESPERIA
EAST ELK HILLS	PHELAN
FAIRMONT BUTTE	SAN BERNARDINO NORTH
FAMOSO	SAN BERNARDINO SOUTH
GOSFORD	SILVERWOOD LAKE
GRAPEVINE	<b>San Joaquin</b>
LA LIEBRE RANCH	SOLYO
LEBEC	TRACY
LOKERN	VERNALIS
LOST HILLS	<b>Stanislaus</b>
LOST HILLS NW	CROWS LANDING
MARICOPA	HOWARD RANCH
MCFARLAND	NEWMAN
METTLER	ORESTIMBA PEAK
NEENACH SCHOOL	PATTERSON
OILDALE	WESTLEY
PASTORIA CREEK	<b>Tulare</b>
PENTLAND	DELANO EAST
ROSEDALE	DUCOR
STEVENS	IVANHOE
TAFT	LINDSAY
TUPMAN	PORTERVILLE
WEST ELK HILLS	ROCKY HILL
<b>Kings</b>	SAUSALITO SCHOOL
AVENAL GAP	STOKES MOUNTAIN
KETTLEMAN CITY	WOODLAKE
LOS VIEJOS	
WEST CAMP	



Source: ENTRIX, Inc. 2009



Draft CVC Contractors EIR



**Figure 1-1: Project Location**

## NATIVE AMERICAN HERITAGE COMMISSION

May 19, 2020

Jaymie L. Brauer  
Quad Knopf, Inc.

Via Email to: [jaymie.brauer@qkinc.com](mailto:jaymie.brauer@qkinc.com)

**Re: CVC Renewal of Conveyance Contracts EIR Update, Alameda, Fresno, Kern, Kings, Los Angeles, Madera, Merced, Riverside, San Bernardino, San Joaquin, Stanislaus, and Tulare Counties**

Dear Ms. Brauer:

A record search of the Native American Heritage Commission (NAHC) Sacred Lands File (SLF) was completed for the information you have submitted for the above referenced project. The results were positive. Please contact **ALL** the tribes on the attached list for more information. Other sources of cultural resources should also be contacted for information regarding known and recorded sites.

Attached is a list of Native American tribes who may also have knowledge of cultural resources in the project area. This list should provide a starting place in locating areas of potential adverse impact within the proposed project area. I suggest you contact all of those indicated; if they cannot supply information, they might recommend others with specific knowledge. By contacting all those listed, your organization will be better able to respond to claims of failure to consult with the appropriate tribe. If a response has not been received within two weeks of notification, the Commission requests that you follow-up with a telephone call or email to ensure that the project information has been received.

If you receive notification of change of addresses and phone numbers from tribes, please notify me. With your assistance, we can assure that our lists contain current information.

If you have any questions or need additional information, please contact me at my email address: [Nancy.Gonzalez-Lopez@nahc.ca.gov](mailto:Nancy.Gonzalez-Lopez@nahc.ca.gov).

Sincerely,



Nancy Gonzalez-Lopez  
Cultural Resources Analyst

Attachment



CHAIRPERSON  
**Laura Miranda**  
Luiseño

VICE CHAIRPERSON  
**Reginald Pagaling**  
Chumash

SECRETARY  
**Merri Lopez-Keifer**  
Luiseño

PARLIAMENTARIAN  
**Russell Attebery**  
Karuk

COMMISSIONER  
**Marshall McKay**  
Wintun

COMMISSIONER  
**William Mungary**  
Paiute/White Mountain  
Apache

COMMISSIONER  
**Julie Tumamait-Stenslie**  
Chumash

COMMISSIONER  
**[Vacant]**

COMMISSIONER  
**[Vacant]**

EXECUTIVE SECRETARY  
**Christina Snider**  
Pomo

**NAHC HEADQUARTERS**  
1550 Harbor Boulevard  
Suite 100  
West Sacramento,  
California 95691  
(916) 373-3710  
[nahc@nahc.ca.gov](mailto:nahc@nahc.ca.gov)  
[NAHC.ca.gov](http://NAHC.ca.gov)

**Native American Heritage Commission  
Native American Contact List  
Fresno, Madera, Merced, San Joaquin, Alameda,  
Kern, Riverside, Tulare, Los Angeles, Stanislaus,  
San Bernardino, Kings Counties  
5/19/2020**

**Agua Caliente Band of Cahuilla  
Indians**

Jeff Grubbe, Chairperson  
5401 Dinah Shore Drive  
Palm Springs, CA, 92264  
Phone: (760) 699 - 6800  
Fax: (760) 699-6919

Cahuilla

**Barbareno/ Ventureneno Band of  
Mission Indians**

Patrick Tumamait,  
992 El Camino Corto  
Ojai, CA, 93023  
Phone: (805) 216 - 1253

Chumash

**Agua Caliente Band of Cahuilla  
Indians**

Patricia Garcia-Plotkin, Director  
5401 Dinah Shore Drive  
Palm Springs, CA, 92264  
Phone: (760) 699 - 6907  
Fax: (760) 699-6924  
ACBCI-THPO@aguacaliente.net

Cahuilla

**Barbareno/ Ventureneno Band of  
Mission Indians**

Raudel Banuelos,  
331 Mira Flores  
Camarillo, CA, 93012  
Phone: (805) 427 - 0015

Chumash

**Amah Mutsun Tribal Band**

Valentin Lopez, Chairperson  
P.O. Box 5272  
Galt, CA, 95632  
Phone: (916) 743 - 5833  
vlopez@amahmutsun.org

Costanoan  
Northern Valley  
Yokut

**Barbareno/Ventureneno Band of  
Mission Indians**

Julie Tumamait-Stenslie,  
Chairperson  
365 North Poli Ave  
Ojai, CA, 93023  
Phone: (805) 646 - 6214  
jtumamait@hotmail.com

Chumash

**Amah Mutsun Tribal Band of  
Mission San Juan Bautista**

Irenne Zwierlein, Chairperson  
789 Canada Road  
Woodside, CA, 94062  
Phone: (650) 851 - 7489  
Fax: (650) 332-1526  
amahmutsuntribal@gmail.com

Costanoan

**Big Pine Paiute Tribe of Owens  
Valley**

Sally Manning, Environmental  
Director  
P. O. Box 700  
Big Pine, CA, 93513  
Phone: (760) 938 - 2003  
s.manning@bigpinepaiute.org

Paiute-Shoshone

**Augustine Band of Cahuilla  
Mission Indians**

Amanda Vance, Chairperson  
P.O. Box 846  
Coachella, CA, 92236  
Phone: (760) 398 - 4722  
Fax: (760) 369-7161  
hhaines@augustinetribe.com

Cahuilla

**Big Pine Paiute Tribe of the  
Owens Valley**

James Rambeau, Chairperson  
P. O. Box 700  
Big Pine, CA, 93513  
Phone: (760) 938 - 2003  
Fax: (760) 938-2942  
j.rambeau@bigpinepaiute.org

Paiute-Shoshone

**Barbareno/ Ventureneno Band of  
Mission Indians**

Eleanor Arrellanes,  
P. O. Box 5687  
Ventura, CA, 93005  
Phone: (805) 701 - 3246

Chumash

This list is current only as of the date of this document. Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resource Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources assessment for the proposed CVC Renewal of Conveyance Contracts EIR Update, Fresno, Madera, Merced, San Joaquin, Alameda, Kern, Riverside, Tulare, Los Angeles, Stanislaus, San Bernardino, Kings Counties.

**Native American Heritage Commission  
Native American Contact List  
Fresno, Madera, Merced, San Joaquin, Alameda,  
Kern, Riverside, Tulare, Los Angeles, Stanislaus,  
San Bernardino, Kings Counties  
5/19/2020**

**Big Pine Paiute Tribe of the Owens Valley**

Danelle Gutierrez, Tribal Historic Preservation Officer  
P.O. Box 700  
Big Pine, CA, 93513  
Phone: (760) 938 - 2003  
Fax: (760) 938-2942  
d.gutierrez@bigpinepaiute.org

Paiute-Shoshone

**Calaveras Band of Mi-Wuk Indians**

Gloria Grimes, Chairperson  
P.O. Box 899  
West Point, CA, 95255  
Phone: (209) 419 - 5675  
calaverasband.miwukindians@gmail.com

Mi-wuk

**Big Sandy Rancheria of Western Mono Indians**

Elizabeth Kipp, Chairperson  
P.O. Box 337  
Auberry, CA, 93602  
Phone: (559) 374 - 0066  
Fax: (559) 374-0055  
lkipp@bsrnation.com

Western Mono

**Calaveras Band of Mi-Wuk Indians - Grimes**

Debra Grimes, Cultural Resources Specialist  
P.O. Box 1015  
West Point, CA, 95255  
Phone: (209) 470 - 8688  
calaverasmiwukpreservation@gmail.com

Mi-wuk

**Buena Vista Rancheria of Me-Wuk Indians**

Rhonda Morningstar Pope, Chairperson  
1418 20th Street, Suite 200  
Sacramento, CA, 95811  
Phone: (916) 491 - 0011  
Fax: (916) 491-0012  
rhonda@buenavistatribe.com

Me-Wuk

**Calaveras Band of Mi-Wuk Indians**

546 Bald Mountain Road  
West Point, CA, 95255  
Phone: (209) 293 - 2189

Mi-Wuk

**Cabazon Band of Mission Indians**

Doug Welmas, Chairperson  
84-245 Indio Springs Parkway  
Indio, CA, 92203  
Phone: (760) 342 - 2593  
Fax: (760) 347-7880  
jstapp@cabazonindians-nsn.gov

Cahuilla

**California Valley Miwok Tribe**

Silvia Burley,  
14807 Avenida Central  
La Grange, CA, 95329  
Phone: (209) 931 - 4567  
Fax: (209) 931-4333  
office@cvmt.net

Miwok

**Cahuilla Band of Indians**

Daniel Salgado, Chairperson  
52701 U.S. Highway 371  
Anza, CA, 92539  
Phone: (951) 763 - 5549  
Fax: (951) 763-2808  
Chairman@cahuilla.net

Cahuilla

**Chumash Council of Bakersfield**

Julio Quair, Chairperson  
729 Texas Street  
Bakersfield, CA, 93307  
Phone: (661) 322 - 0121  
chumashtribe@sbcglobal.net

Chumash

**Coastal Band of the Chumash Nation**

Gino Altamirano, Chairperson  
P. O. Box 4464  
Santa Barbara, CA, 93140  
cbcn.consultation@gmail.com

Chumash

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**Native American Heritage Commission  
Native American Contact List  
Fresno, Madera, Merced, San Joaquin, Alameda,  
Kern, Riverside, Tulare, Los Angeles, Stanislaus,  
San Bernardino, Kings Counties  
5/19/2020**

**Cold Springs Rancheria of Mono Indians**

Carol Bill, Chairperson  
P.O. Box 209 Mono  
Tollhouse, CA, 93667  
Phone: (559) 855 - 5043  
Fax: (559) 855-4445  
coldsprgstribes@netptc.net

**Fernandeno Tataviam Band of Mission Indians**

Jairo Avila, Tribal Historic and Cultural Preservation Officer  
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Foothill Yokut  
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# Lower Tule River

Irrigation District

SINCE 1950

Gary Fernandes  
*President*

October 21, 2020

Tom Barcellos  
*Vice President*

From: Lower Tule River Irrigation District

Jim Costa  
*Director*

**RE: Tribal Cultural Resources under the California Environmental Quality Act, AB 52 (Gatto, 2014). A Formal Notification of a Decision to Undertake a Project and Notification of Consultation Opportunity, pursuant to Public Resources Code § 21080.3.1 (hereafter PRC).**

Joshua Pitigliano  
*Director*

Dear Tribal Contact:

Alex Garcia  
*Director*

The Lower Tule River Irrigation District has decided to undertake the Cross-Valley Canal (CVC) Contractors Conversion of Water Supply Contracts and Renewal of Conveyance Contracts (Project). The Lower Tule River Irrigation District is designated as Lead Agency under the California Environmental Quality Act (CEQA).

Eric Limas  
*General Manager*

Beth Grote-Lewis  
*Assessor*

The CVC Contractors consist of seven agencies (LTRID, Pixley Irrigation District, Kern-Tulare Water District, Hills Valley Irrigation District, Tri-Valley Water District, the County of Tulare and the County of Fresno). The proposed Project is the conversion of each of the CVC Contractors' water supply contracts with the U.S. Bureau of Reclamation (Reclamation) pursuant to the Water Infrastructure Improvement for the Nation Act, Pub. L. 114-322 (WIIN Act); and the renewal of a long-term conveyance agreement by each of the CVC Contractors with the Reclamation and the California Department of Water Resources (DWR).

Alex Peltzer  
*Legal Counsel*

The proposed Project is a water conveyance facility in the southern San Joaquin Valley that extends from the California Aqueduct near Tupman, east to the Kern River. The CVC can convey water to the CVC Contractors' turn-outs along the Friant-Kern Canal (FKC), on the east side of the San Joaquin Valley. The CVC Contractors are located within Fresno, Kings, Tulare, and Kern Counties. DWR operates the State Water Project (SWP), with facilities available for conveyance of CVP Water for CVC Contractors when unused capacity is present, located in Central California from Clifton Court Forebay south to the California Aqueduct's connection with the CVC.

The CVC Contractors are located physically along the Friant-Kern Canal (FKC) and not directly connected with the CVC. Because the CVC Contractors are not directly connected to the CVC, their CVP water is delivered predominately through transfers and exchanges of water with other water districts or agencies.

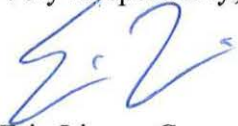
An exchange that has been used in the past involved Arvin Edison Water Storage District (AEWSD) receiving the CVC Contractors' water directly from the CVC and exchanging that water for its CVP supply, which would otherwise be delivered through the FKC. The CVC Contractors then would receive the exchanged water through Millerton Lake or the FKC. There are numerous other similar exchange arrangements that can be (and have been) utilized to deliver the CVC Contractors' water supply from the Delta to the individual CVC Contractors' districts. The proposed conveyance contract renewal, if signed, will allow DWR to continue to convey the water to the CVC Contractors in a manner substantially similar to the manner it has done in the past.

The proposed Project includes: (1) the approval and execution of agreements converting CVC Contractors' existing water supply agreements for CVP Water with Reclamation pursuant to the Water Infrastructure Improvement for the Nation Act, Pub. L. 114-322 (WIIN Act); and (2) the approval of agreements with DWR that renew the terms of existing agreements for the conveyance of CVC Contractors' CVP Water until 2035. The conveyance agreements have three parties (Reclamation, DWR, CVC Contractors) and provide for the continued conveyance of the CVC Contractors' CVP Water through SWP facilities in the same amounts and manner.

Pursuant to PRC § 21080.3.1 (b), you have 30 days from the receipt of this letter to request consultation, in writing, with the Lower Tule River Water District.

Should you have any comments or questions please contact our designated representative, Christopher B. Mynk (661) 616-2600 or at [Christopher.Mynk@qkinc.com](mailto:Christopher.Mynk@qkinc.com)

Very Respectfully,



Eric Limas, General Manager  
Lower Tule River Irrigation District

Enclosure: Project Location Figure



Source: Esri, DigitalGlobe, GeoEye, Earthstar (Imagery), Swire, GeoEye, USDA, USFS, AeroGRID, IGN, and the GIS User Community

	<b>Project Location</b>		
	<ul style="list-style-type: none"> <li><span style="color: green;">—</span> California Aqueduct</li> <li><span style="color: red;">—</span> San Luis Canal</li> <li><span style="color: purple;">—</span> Delta-Mendota Canal</li> </ul>	<ul style="list-style-type: none"> <li><span style="color: orange;">—</span> Friant-Kern Canal</li> <li><span style="color: lightblue;">—</span> Cross Valley Canal</li> <li><span style="color: cyan;">—</span> River</li> </ul>	<ul style="list-style-type: none"> <li><span style="color: blue;">■</span> Reservoir</li> <li><span style="border: 1px solid gray; display: inline-block; width: 10px; height: 10px;"></span> County Boundary</li> <li><span style="border: 1px solid gray; display: inline-block; width: 10px; height: 10px;"></span> State Boundary</li> </ul>



# Rincon Band of Luiseño Indians

## CULTURAL RESOURCES DEPARTMENT

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One Government Center Lane | Valley Center | CA 92082  
(760) 749-1051 | Fax: (760) 749-8901 | [rincon-nsn.gov](http://rincon-nsn.gov)



October 27, 2020

Sent via email: [Christopher.Mynk@qkinc.com](mailto:Christopher.Mynk@qkinc.com)

Lower Tule River Irrigation District  
Christopher Mynk  
357 E. Olive Avenue  
Tipton, CA 93272

**Re: Request for AB52 Consultation on the Cross-Valley Canal (CVC) Contractors Conversion of Water Supply Contracts and Renewal of Conveyance Contracts Project**

Dear Mr. Mynk,

This letter is written on behalf of the Rincon Band of Luiseño Indians (“Rincon Band” or “Band”), a federally recognized Indian Tribe and sovereign government. We request to be notified and involved in the entire CEQA environmental review process for the entirety of the project’s duration. Please also include the Band on all distribution lists for environmental document reviews, consultations, circulation of public documents, and notices for public hearings and scheduled approvals.

The Rincon Band has received the notification for the above referenced project. The Band would like to consult on the project in order to learn more about any potential impacts to cultural resources. In particular, we are interested to discuss impacts to the Perris Reservoir.

If you have additional questions or concerns, please do not hesitate to contact our office at your convenience at (760) 297-2635 or via electronic mail at [cmadrigal@rincon-nsn.gov](mailto:cmadrigal@rincon-nsn.gov). We look forward to working together to protect and preserve our cultural assets.

Sincerely,



Cheryl Madrigal  
Tribal Historic Preservation Officer  
Cultural Resources Manager

# Rincon Band of Luiseño Indians

## CULTURAL RESOURCES DEPARTMENT

---

One Government Center Lane | Valley Center | CA 92082  
(760) 749-1051 | Fax: (760) 749-8901 | rincon-nsn.gov



February 19, 2021

Sent via email: [elimas@ltrid.org](mailto:elimas@ltrid.org)

Lower-Tule River Irrigation District  
Eric Limas  
357 East Olive Avenue  
Tipton, CA 93272

### **Re: Notice of Preparation of Draft EIR for the CVC Contractors Conversion of Water Supply Contracts and Renewal of Conveyance Contracts**

Dear Mr. Limas,

This letter is written on behalf of the Rincon Band of Luiseño Indians (“Rincon Band” or “Band”), a federally recognized Indian Tribe and sovereign government. Thank you for providing the Rincon Band with the project descriptions for the CVC Contractors Conversion of Water Supply Contracts and renewal of Conveyance Contracts.

We have no further comments and can conclude consultation at this time. Please include the Band on all distribution lists for environmental document reviews, consultations, circulation of public documents, and notices for public hearings and scheduled approvals for this particular undertaking.

The Rincon Band reserves its right to continue to fully participate in the environmental review process and to review and submit additional information during the public review process. If you have additional questions or concerns, please do not hesitate to contact our office at your convenience at (760) 297-2635 or via electronic mail at [cmadrigal@rincon-nsn.gov](mailto:cmadrigal@rincon-nsn.gov).

Sincerely,

Cheryl Madrigal  
Tribal Historic Preservation Officer  
Cultural Resources Manager

**From:** [Jairo Avila](#)  
**To:** [Carlos Rojas](#)  
**Cc:** [Christopher Mynk](#); [Karla Topete](#)  
**Subject:** [EXTERNAL]:Re: AB 52 Consultation: CVC Renewal of Conveyance Contracts EIR  
**Date:** Wednesday, October 21, 2020 6:00:18 PM

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**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Mr. Rojas,

On behalf of the Tribal Historic and Cultural Preservation Department of the Fernandefio Tativiam Band of Mission Indians (FTBMI), thank you for the formal notification letter and opportunity to comment on the proposed Cross Valley Canal Project. This Project is situated outside the FTBMI's ancestral Tribal boundaries. The FTBMI would like to defer consultation for this Project to local tribes.

Best,

**Jairo F. Avila, M.A., RPA.**

*Tribal Historic and Cultural Preservation Officer*

Cultural Resources Management Division

**Tribal Historic and Cultural Preservation Department**

**Fernandefio Tativiam Band of Mission Indians**

1019 Second Street, Suite 1

San Fernando, California 91340

Office: (818) 837-0794

Website: <http://www.tativiam-nsn.us>

---

**From:** Carlos Rojas <carlos.rojas@qkinc.com>

**Sent:** Wednesday, October 21, 2020 4:42 PM

**Cc:** Christopher Mynk <Christopher.Mynk@qkinc.com>; Karla Topete <Karla.Topete@qkinc.com>

**Subject:** AB 52 Consultation: CVC Renewal of Conveyance Contracts EIR

**[CAUTION]** EXTERNAL Email. Exercise caution.

**CAUTION:** This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good Afternoon,

Please see attached AB 52 Notification of Consultation for the proposed Project mentioned above.

Should you have any comments or questions please contact either myself or Christopher B. Mynk at (661) 616-2600 or at [Christopher.Mynk@qkinc.com](mailto:Christopher.Mynk@qkinc.com)

Thank you,

**Carlos Rojas**

*Senior Associate Planner*

5080 California Ave #220

Bakersfield, CA 93309

(661) 616-2600 Ext. 4151 Office

(661) 889-0829 Cell

[www.QKInc.com](http://www.QKInc.com)



**From:** [Christopher Mynk](#)  
**To:** [Karla Topete](#)  
**Cc:** [Carlos Rojas](#)  
**Subject:** FW: [EXTERNAL]:RE: CWC Renewal of Conveyance Contracts, California  
**Date:** Tuesday, October 27, 2020 3:45:27 PM  
**Attachments:** [image001.png](#)

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**From:** Ryan Nordness <Ryan.Nordness@sanmanuel-nsn.gov>  
**Sent:** Wednesday, October 21, 2020 5:18 PM  
**To:** Christopher Mynk <Christopher.Mynk@qkinc.com>  
**Cc:** Jessica Mauck <JMauck@sanmanuel-nsn.gov>  
**Subject:** [EXTERNAL]:RE: CWC Renewal of Conveyance Contracts, California

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Christopher Mynk,

Thank you for contacting the San Manuel Band of Mission Indians (SMBMI) regarding the above referenced project. SMBMI appreciates the opportunity to review the project documentation, which was received by our Cultural Resources Management Department on October 21<sup>st</sup>, 2020, pursuant to CEQA (as amended, 2015) and CA PRC 21080.3.1. The proposed project area exists within Serrano ancestral territory and, therefore, is of interest to the Tribe. However, due to the nature and location of the proposed project, and given the CRM Department's present state of knowledge, SMBMI does not have any concerns with the project's implementation, as planned, at this time.

Respectfully,  
Ryan Nordness

## Ryan Nordness

CULTURAL RESOURCE ANALYST

O: (909) 864-5050 x50-2022

Internal: 50-2022

M: 909-838-4053

26569 Community Center Dr Highland CA 92346



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**From:** [Christopher Mynk](#)  
**To:** [Karla Topete](#)  
**Cc:** [Carlos Rojas](#)  
**Subject:** FW: [EXTERNAL]:RE: AB 52 Consultation: CVC Renewal of Conveyance Contracts EIR  
**Date:** Tuesday, October 27, 2020 3:44:48 PM

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Please file a pdf of this email as well.

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**From:** Quechan Historic Preservation Officer <historicpreservation@quechantribe.com>  
**Sent:** Thursday, October 22, 2020 3:44 PM  
**To:** Carlos Rojas <carlos.rojas@qkinc.com>  
**Cc:** Christopher Mynk <Christopher.Mynk@qkinc.com>; Karla Topete <Karla.Topete@qkinc.com>  
**Subject:** [EXTERNAL]:RE: AB 52 Consultation: CVC Renewal of Conveyance Contracts EIR

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

This email is to inform you that we have no comments on this project. We defer to the more local Tribes and support their decisions on the project.

---

**From:** Carlos Rojas [<mailto:carlos.rojas@qkinc.com>]  
**Sent:** Wednesday, October 21, 2020 4:43 PM  
**Cc:** Christopher Mynk; Karla Topete  
**Subject:** AB 52 Consultation: CVC Renewal of Conveyance Contracts EIR

Good Afternoon,

Please see attached AB 52 Notification of Consultation for the proposed Project mentioned above.

Should you have any comments or questions please contact either myself or Christopher B. Mynk at (661) 616-2600 or at [Christopher.Mynk@qkinc.com](mailto:Christopher.Mynk@qkinc.com)

Thank you,

**Carlos Rojas**  
*Senior Associate Planner*  
5080 California Ave #220  
Bakersfield, CA 93309  
(661) 616-2600 Ext. 4151 Office  
(661) 889-0829 Cell  
[www.QKInc.com](http://www.QKInc.com)





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**From:** [Christopher Mynk](#)  
**To:** [Carlos Rojas](#)  
**Cc:** [Karla Topete](#)  
**Subject:** FW: [EXTERNAL]:Lower Tule River Irrigation District Cross-Valley Canal Contractors Conversion of Water Supply Contracts and Renewal of Conveyance Contracts  
**Date:** Monday, November 2, 2020 8:53:26 AM

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**From:** Padilla, Lacy (TRBL) <lpadilla@aguacaliente.net>  
**Sent:** Friday, October 30, 2020 3:42 PM  
**To:** Christopher Mynk <Christopher.Mynk@qkinc.com>  
**Subject:** [EXTERNAL]:Lower Tule River Irrigation District Cross-Valley Canal Contractors Conversion of Water Supply Contracts and Renewal of Conveyance Contracts

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Greetings,

A records check of the Tribal Historic preservation office's cultural registry revealed that this project is not located within the Tribe's Traditional Use Area. Therefore, we defer to the other tribes in the area. This letter shall conclude our consultation efforts.

Thank you,

**Lacy Padilla**

Archaeologist

Agua Caliente Band of Cahuilla Indians

5401 Dinah Shore Drive Palm Springs, CA 92264

D: 760-699-6956 | C: 760-333-5222

**From:** [Joyce Perry](#)  
**To:** [Carlos Rojas](#)  
**Cc:** [Christopher Mynk](#); [Karla Topete](#)  
**Subject:** [EXTERNAL]:Re: AB 52 Consultation: CVC Renewal of Conveyance Contracts EIR  
**Date:** Thursday, November 5, 2020 12:01:20 PM

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Good Afternoon,

This project is located outside of our tribal territory. We defer to the recommendation of the Indigenous people of the area. Thank you

Húu'uni 'óomaqati yáamaqati.  
Teach peace  
Joyce Stanfield Perry  
Payomkawichum Kaamalam - President  
Juaneño Band of Mission Indians, Acjachemen Nation  
Tribal Manager, Cultural Resource Director

On Wed, Oct 21, 2020 at 4:45 PM Carlos Rojas <[carlos.rojas@qkinc.com](mailto:carlos.rojas@qkinc.com)> wrote:

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good Afternoon,

Please see attached AB 52 Notification of Consultation for the proposed Project mentioned above.

Should you have any comments or questions please contact either myself or Christopher B. Mynk at (661) 616-2600 or at [Christopher.Mynk@qkinc.com](mailto:Christopher.Mynk@qkinc.com)

Thank you,

**Carlos Rojas**

*Senior Associate Planner*

5080 California Ave #220

Bakersfield, CA 93309

(661) 616-2600 Ext. 4151 Office

(661) 889-0829 Cell

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**APPENDIX D**  
**SPECIAL-STATUS SPECIES**

Table D-1 Special-status Species Potentially Present in the Project Area or Vicinity

Common Name Scientific Name	Status	Habitat
<b>Plants</b>		
Horn's milk-vetch <i>Astragalus hornii</i> var. <i>hornii</i>	RPR 1B	Meadows and seeps, playas. Lake margins, alkaline sites. 60-850 meters.
Heartscale <i>Atriplex cordulata</i>	RPR 1B	Chenopod scrub, valley and foothill grassland, meadows. Alkaline flats and scalds in the Central Valley, sandy soils. 1-150(600)m.
Lost Hills crownscale <i>Atriplex coronata</i> var. <i>vallicola</i>	RPR 1B	Chenopod scrub, valley and foothill grassland, vernal pools. In powdery, alkaline soils that are vernal moist with <i>Frankenia</i> , <i>Atriplex</i> spp. and <i>Distichlis</i> . 0-605 meters.
Brittlescale <i>Atriplex depressa</i>	RPR 1B	Chenopod scrub, meadows, playas, valley and foothill grassland, vernal pools. Usually in alkali scalds or alkaline clay in meadows or annual grassland; rarely associated with riparian, marshes, or vernal pools. 1-320 meters.
Earlimart orache <i>Atriplex erecticaulis</i>	RPR 1B	Valley and foothill grassland. 40-100 meters.
Lesser saltscale <i>Atriplex minuscula</i>	RPR 1B	Chenopod scrub, playas, valley and foothill grassland. In alkali sink and grassland in sandy, alkaline soils. 20-100 meters.
Vernal pool smallscale <i>Atriplex persistens</i>	RPR 1B	Vernal pools. Alkaline vernal pools. 10-115 meters.
Subtle orache <i>Atriplex subtilis</i>	RPR 1B	Valley and foothill grassland. Little info available. 40-100 meters.
Bakersfield smallscale <i>Atriplex tularensis</i>	CE, RPR 1A	Chenopod scrub, alkali meadow. Historically In valley sink scrub or with saltgrass. 90-110 meters.
Alkali mariposa-lily <i>Calochortus striatus</i>	RPR 1B	Chaparral, chenopod scrub, Mojavean desert scrub, meadows. Alkaline meadows and ephemeral washes. 90-1595 meters.
Succulent (fleshy) owl's-clover <i>Castilleja campestris</i> ssp. <i>succulenta</i>	FT, CE, RPR 1B	Vernal pools, valley and foothill grassland. Moist places, often in acidic soils. 25-750 meters.
California jewel-flower <i>Caulanthus californicus</i>	FE, CE, RPR 1B	Chenopod scrub, valley and foothill grassland, pinyon-juniper woodland. Historical from various valley habitats in both the Central Valley and Carrizo Plain. 65-900 meters.
Hoover's spurge <i>Chamaesyce hooveri</i>	FT, RPR 1B	Vernal pools, valley and foothill grassland. Vernal pools on volcanic mudflow or clay substrate. 25-130 meters.
Hispid bird's-beak <i>Chloropyron molle</i> ssp. <i>hispidum</i>	RPR 1B	Meadows, playas, valley and foothill grassland. In damp alkaline soils, especially in alkaline meadows and alkali sinks with <i>Distichlis</i> . 10-155 meters.
Slough thistle <i>Cirsium crassicaule</i>	RPR 1B	Chenopod scrub, marshes and swamps, riparian scrub. Sloughs, riverbanks, and marshy areas. 3-100 meters.
Springville clarkia <i>Clarkia springvillensis</i>	FT, CE, RPR 1B	Chaparral, cismontane woodland, valley and foothill grassland. Cutbanks and openings in blue oak woodland. Decomposed granite loam. 330-1220 meters.

**Table D-1 Special-status Species Potentially Present in the Project Area or Vicinity**

<b>Common Name Scientific Name</b>	<b>Status</b>	<b>Habitat</b>
Recurved larkspur <i>Delphinium recurvatum</i>	RPR 1B	Chenopod scrub, valley and foothill grassland, cismontane woodland. On alkaline soils; often in valley saltbush or valley chenopod scrub. 3-685 meters.
Dwarf downingia <i>Downingia pusilla</i>	RPR 2	Valley and foothill grassland (mesic sites), vernal pools. Vernal lake and pool margins with a variety of associates. In several types of vernal pools. 1-485 meters.
Kern mallow <i>Eremalche kernensis</i>	FE, RPR 1B	Chenopod scrub, valley and foothill grassland. On dry, open sandy to clayey soils; usually within valley saltbush scrub; often at edge of balds. 70-515 meters.
Hoover's eriastrum <i>Eriastrum hooveri</i>	RPR 4	Chenopod scrub, valley and foothill grassland, pinyon and juniper woodland. On sparsely vegetated alkaline alluvial fans; also in the temblor range on sandy soils. 50-915 meters.
Spiny-sepaled button-celery <i>Eryngium spinosepalum</i>	RPR 1B	Vernal pools, valley and foothill grassland. Some sites on clay soil of granitic origin; vernal pools, within grassland. 100-420 meters.
Tejon poppy <i>Eschscholzia lemmonii</i> ssp. <i>kernensis</i>	RPR 1B	Valley and foothill grassland. Little information available on habitat. 250-750 meters.
Striped adobe-lily <i>Fritillaria striata</i>	CT, RPR 1B	Cismontane woodland, valley and foothill grassland. Heavy clay adobe soils in oak grassland. 135-1455 meters.
California satintail <i>Imperata brevifolia</i>	RPR 2	Coastal scrub, chaparral, riparian scrub, Mojavean scrub, meadows and seeps (alkali). Mesic sites, alkali seeps, riparian areas. 0-500 meters.
Coulter's goldfields <i>Lasthenia glabrata</i> ssp. <i>coulteri</i>	RPR 1B	Coastal salt marshes, playas, valley and foothill grassland, vernal pools. Usually found on alkaline soils in playas, sinks, and grasslands. 1-1400 meters.
Madera leptosiphon <i>Leptosiphon serrulatus</i>	RPR 1B	Cismontane woodland, lower montane coniferous forest. Dry slopes; often on decomposed granite in woodland. 80-1575 meters.
Calico monkeyflower <i>Mimulus pictus</i>	RPR 1B	Broadleaved upland forest, cismontane woodland. In bare ground around gooseberry bushes or around granite rock outcrops. 100-1300 meters.
San Joaquin woollythreads <i>Monolopia congdonii</i>	FE, RPR 1B	Chenopod scrub and valley and foothill grassland. Alkaline or loamy plains; sandy soils, often with grasses and within chenopod scrub. 60-800 meters.
Bakersfield cactus <i>Opuntia basilaris</i> var. <i>treleasei</i>	FE, CE, RPR 1B	Chenopod scrub, valley and foothill grassland, cismontane woodland. Coarse or cobbly well-drained granitic sand on bluffs, low hills, and flats within grassland. 90-550 meters.
San Joaquin Valley Orcutt grass <i>Orcuttia inaequalis</i>	FT, CE, RPR 1B	Vernal pools. 30-755 meters.
Hartweg's golden sunburst <i>Pseudobahia bahiifolia</i>	FE, CE, RPR 1B	Valley and foothill grassland, cismontane woodland. Clay soils, predominantly on the northern slopes of knolls, but also along shady creeks or near vernal pools. 15-150 meters.
San Joaquin adobe sunburst <i>Pseudobahia peirsonii</i>	FT, CE, RPR 1B	Valley and foothill grassland, cismontane woodland. Grassy valley floors and rolling foothills in heavy clay soil. 85-800 meters.

**Table D-1 Special-status Species Potentially Present in the Project Area or Vicinity**

<b>Common Name Scientific Name</b>	<b>Status</b>	<b>Habitat</b>
California chalk moss <i>Pterygoneurum californicum</i>	RPR 1B	Chenopod scrub, alkali playas, valley and foothill grassland. Moss growing on alkali soil. 10-100 meters
Oil neststraw <i>Stylocline citroleum</i>	RPR 1B	Chenopod scrub, coastal scrub. Flats, clay soils in oil-producing areas. 50-300 meters.
<b>Invertebrates</b>		
Conservancy fairy shrimp <i>Branchinecta conservatio</i>	FE	Endemic to the grasslands of the northern two-thirds of the Central Valley; found in large, turbid pools. Inhabit astatic pools located in swales formed by old, braided alluvium; filled by winter/spring rains, last until June.
Vernal pool fairy shrimp <i>Branchinecta lynchi</i>	FT	Endemic to the grasslands of the Central Valley, Central Coast mountains, and South Coast mountains, in astatic rain-filled pools. Inhabit small, clear-water sandstone-depression pools and grassed swale, earth slump, or basalt-flow depression pools.
Valley elderberry longhorn beetle <i>Desmocerus californicus dimorphus</i>	FT	Occurs only in the Central Valley of California, in association with blue elderberry ( <i>Sambucus mexicana</i> ). Prefers to lay eggs in elderberries 2-8 inches in diameter; some preference shown for "stressed" elderberries.
Vernal pool tadpole shrimp <i>Lepidurus packardii</i>	FE	Inhabits vernal pools and swales in the Sacramento Valley containing clear to highly turbid water. Pools commonly found in grass bottomed swales of unplowed grasslands. Some pools are mud-bottomed and highly turbid.
<b>Fish</b>		
Green sturgeon <i>Acipenser medirostris</i>	FT	These are the most marine species of sturgeon. Abundance increases northward of Point Conception. Spawns in the Sacramento River at temperatures between 8-14 C. Preferred spawning substrate is large cobble, but can range from clean sand to bedrock.
Kern brook lamprey <i>Entosphenus hubbsi</i>	CSC	San Joaquin River system and Kern River. Gravel-bottomed areas for spawning and muddy-bottomed areas where ammocoetes can burrow and feed.
Delta smelt <i>Hypomesus transpacificus</i>	FT, CE	Sacramento-San Joaquin Delta. Seasonally in Suisun Bay, Carquinez Strait and San Pablo Bay. seldom found at salinities > 10 ppt. most often at salinities < 2ppt.
Central Valley steelhead <i>Oncorhynchus mykiss</i>	FT	Populations in the Sacramento and San Joaquin Rivers and their tributaries.
Central Valley spring-run Chinook salmon <i>Oncorhynchus tshawytscha</i>	ST, FT	Sacramento River below Keswick Dam. Spawns in the Sacramento River but not in tributary streams. Requires clean, cold water over gravel beds with water temperatures between 6 and 14 c for spawning.
Sacramento River winter-run Chinook salmon <i>Oncorhynchus tshawytscha</i>	SE, FE	Adult numbers depend on pool depth and volume, amount of cover, and proximity to gravel. Water temperatures >27 C are lethal to adults. Federal listing refers to populations spawning in Sacramento River and tributaries.

Table D-1 Special-status Species Potentially Present in the Project Area or Vicinity

Common Name Scientific Name	Status	Habitat
<b>Amphibians</b>		
California tiger salamander <i>Ambystoma californiense</i>	FT, CT, CSC	Central Valley DPS federally listed as threatened. Santa Barbara and Sonoma Counties DPS federally listed as endangered. Need underground refuges, especially ground squirrel burrows and vernal pools or other seasonal water sources for breeding
Northern leopard frog <i>Lithobates pipiens</i>	CSC	Native range is east of Sierra Nevada-Cascade crest. Near permanent or semi-permanent water in a variety of habitats. Highly aquatic species. shoreline cover, submerged and emergent aquatic vegetation are important habitat characteristics
Foothill yellow-legged frog <i>Rana boylei</i>	CSC	Partly-shaded, shallow streams and riffles with a rocky substrate in a variety of habitats. Need at least some cobble-sized substrate for egg-laying. Need at least 15 weeks to attain metamorphosis.
California red-legged frog <i>Rana draytonii</i>	FT, CSC	Lowlands and foothills in or near permanent sources of deep water with dense, shrubby or emergent riparian vegetation. Requires 11-20 weeks of permanent water for larval development. Must have access to estivation habitat.
Southern mountain yellow-legged frog <i>Rana muscosa</i>	FE, CE	Federal listing refers to populations in the San Gabriel, San Jacinto and San Bernardino Mountains only. Always encountered within a few feet of water. Tadpoles may require 2 – 4 years to complete their aquatic development.
Western spadefoot <i>Spea hammondi</i>	CSC	Occurs primarily in grassland habitats, but can be found in valley-foothill hardwood woodlands. Vernal pools are essential for breeding and egg-laying.
<b>Reptiles</b>		
Silvery legless lizard <i>Anniella pulchra pulchra</i>	CSC	Sandy or loose loamy soils under sparse vegetation. Soil moisture is essential. They prefer soils with a high moisture content.
Western pond turtle <i>Emys marmorata</i>	CSC	A thoroughly aquatic turtle of ponds, marshes, rivers, streams and irrigation ditches, usually with aquatic vegetation, but need basking sites and suitable (sandy banks or grassy open fields) upland habitat up to 0.5 km from water for egg-laying
Blunt-nosed leopard lizard <i>Gambelia sila</i>	FE, CE, CFP	Resident of sparsely vegetated alkali and desert scrub habitats, in areas of low topographic relief. Seeks cover in mammal burrows, under shrubs or structures such as fence posts; they do not excavate their own burrows.
San Joaquin whipsnake <i>Masticophis flagellum ruddocki</i>	CSC	Open, dry habitats with little or no tree cover. Found in valley grassland and saltbush scrub in the San Joaquin Valley. Needs mammal burrows for refuge and oviposition sites.
Coast horned lizard <i>Phrynosoma blainvillii</i>	CSC	Frequents a wide variety of habitats, most common in lowlands along sandy washes with scattered low bushes. Open areas for sunning, bushes for cover, patches of loose soil for burial, and abundant supply of ants and other insects.
Giant garter snake <i>Thamnophis gigas</i>	FT, CT	Prefers freshwater marsh and low gradient streams. Has adapted to drainage canals and irrigation ditches. This is the most aquatic of the garter snakes in California.



**Table D-1 Special-status Species Potentially Present in the Project Area or Vicinity**

<b>Common Name Scientific Name</b>	<b>Status</b>	<b>Habitat</b>
<b>Birds</b>		
Tricolored blackbird <i>Agelaius tricolor</i>	CSC	Highly colonial species, most numerous in Central Valley and vicinity. Largely endemic to California. Requires open water, protected nesting substrate, and foraging area with insect prey within a few km of the colony.
Burrowing owl <i>Athene cunicularia</i>	CSC	Open, dry annual or perennial grasslands, deserts and scrublands characterized by low-growing vegetation. Subterranean nester, dependent upon burrowing mammals, most notably, the California ground squirrel.
Swainson's hawk <i>Buteo swainsoni</i>	CT	Breeds in grasslands with scattered trees, juniper-sage flats, riparian areas, savannahs, and agricultural or ranch. Requires adjacent suitable foraging areas such as grasslands, or alfalfa or grain fields supporting rodent populations.
Western snowy plover <i>Charadrius alexandrinus nivosus</i>	FT, CSC	Sandy beaches, salt pond levees and shores of large alkali lakes. Needs sandy, gravelly or friable soils for nesting.
Mountain plover <i>Charadrius montanus</i>	CSC	Short grasslands, freshly plowed fields, newly sprouting grain fields, and sometimes sod farms. Short vegetation, bare ground and flat topography. Prefers grazed areas and areas with burrowing rodents.
Fulvous whistling-duck <i>Dendrocygna bicolor</i>	CSC	Freshwater marsh. Tule/cattail marsh.
Willow flycatcher <i>Empidonax traillii</i> ( <i>Empidonax traillii eximius</i> is FE)	CE	Inhabits extensive thickets of low, dense willows on edge of wet meadows, ponds, or backwaters; 2000-8000 ft elevation. Requires dense willow thickets for nesting/roosting. Low, exposed branches are used for singing posts/hunting perches.
California condor <i>Gymnogyps californianus</i>	FE, CE	Require vast expanses of open savannah, grasslands, and foothill chaparral in mountain ranges of moderate altitude. Deep canyons containing clefts in the rocky walls provide nesting sites. Forages up to 100 miles from roost/nest.
Le Conte's thrasher <i>Toxostoma lecontei</i>	CSC	Desert resident; primarily of open desert wash, desert scrub, alkali desert scrub, and desert succulent scrub habitats. Commonly nests in a dense, spiny shrub or densely branched cactus in desert wash habitat, usually 2-8 ft above ground.
<b>Mammals</b>		
Nelson's antelope squirrel <i>Ammospermophilus nelsoni</i>	CT	Western San Joaquin Valley from 200-1,200 ft elevation on dry, sparsely vegetated loam soils. Dig burrows or use k-rat burrows. need widely scattered shrubs, forbs and grasses in broken terrain with gullies and washes
Pallid bat <i>Antrozous pallidus</i>	CSC	Deserts, grasslands, shrublands, woodlands and forests. Most common in open, dry habitats with rocky areas for roosting. Roosts must protect bats from high temperatures. Very sensitive to disturbance of roosting sites.
Giant kangaroo rat <i>Dipodomys ingens</i>	FE, CE	Annual grasslands on the western side of the San Joaquin Valley, marginal habitat in alkali scrub. Need level terrain and sandy loam soils for burrowing.

**Table D-1 Special-status Species Potentially Present in the Project Area or Vicinity**

Common Name <i>Scientific Name</i>	Status	Habitat
Short-nosed kangaroo rat <i>Dipodomys nitratoides brevinasus</i>	CSC	Western side of San Joaquin Valley in grassland and desert shrub associations, especially <i>Atriplex</i> . Occurs in highly alkaline soils around soda lake. Needs friable soils. Favors flat to gently sloping terrain.
Fresno kangaroo rat <i>Dipodomys nitratoides exilis</i>	FE, CE	Alkali sink-open grassland habitats in western Fresno County. Bare alkaline clay-based soils subject to seasonal inundation, with more friable soil mounds around shrubs and grasses.
Tipton kangaroo rat <i>Dipodomys nitratoides nitratoides</i>	FE, CE	Saltbush scrub and sink scrub communities in the Tulare Lake Basin of the southern San Joaquin Valley. Needs soft friable soils which escape seasonal flooding. Digs burrows in elevated soil mounds at bases of shrubs.
Spotted bat <i>Euderma maculatum</i>	CSC	Occupies a wide variety of habitats from arid deserts and grasslands through mixed conifer forests. Feeds over water and along washes. Feeds almost entirely on moths. Needs rock crevices in cliffs or caves for roosting.
Western mastiff bat <i>Eumops perotis californicus</i>	CSC	Many open, semi-arid to arid habitats, including conifer and deciduous woodlands, coastal scrub, grasslands, chaparral etc. Roosts in crevices in cliff faces, high buildings, trees and tunnels.
Tulare grasshopper mouse <i>Onychomys torridus tularensis</i>	CSC	Hot, arid valleys and scrub deserts in the southern San Joaquin Valley. Diet almost exclusively composed of arthropods, therefore needs abundant supply of insects.
Buena Vista Lake ornate shrew <i>Sorex ornatus relictus</i>	FE, CSC	Marshlands and riparian areas in the Tulare Basin. Prefers moist soil. Uses stumps, logs and litter for cover.
American badger <i>Taxidea taxus</i>	CSC	Most abundant in drier open stages of most shrub, forest, and herbaceous habitats, with friable soils. Needs sufficient food, friable soils and open, uncultivated ground. Preys on burrowing rodents. Digs burrows.
San Joaquin kit fox <i>Vulpes macrotis mutica</i>	FE, CT	Annual grasslands or grassy open stages with scattered shrubby vegetation. Need loose-textured sandy soils for burrowing, and suitable prey base.

## Status Codes

1A = plants believed to be extinct in California	CE = State-listed as Endangered	FC = federal Candidate for listing
1B = Plants rare or endangered in California and elsewhere	CFP = California Fully Protected	FE = federally listed as Endangered
2 = Plants rare or endangered in California, but more common elsewhere	CSC = California Species of Special Concern	FT = federally listed as Threatened
4 = Plants of limited distribution	CT = State-listed as Threatened	RPR = Rare Plant Rank (designated by the California Department of Fish and Wildlife)

## E.1. Species Descriptions: Federally or State-Listed Species

### E.1.1 Plants

- > **Bakersfield Smallscale.** Bakersfield smallscale (*Atriplex tularensis*) is state-listed as endangered and is Rare Plant Rank List 1A, indicating that it is considered to be extirpated. This species was endemic to Kern County. Bakersfield smallscale was an annual herb, flowering from June to October (CNPS 2008). This species historically was found in valley sink scrub (chenopod scrub) or with saltgrass at elevations from 295 to 360 ft (CDFG<sup>1</sup> 2012).
- > **Succulent (Fleshy) Owl's-Clover.** Succulent (fleshy) owl's-clover (*Castilleja campestris* ssp. *succulenta*) is federally listed as threatened, state-listed as endangered, and is RPR List 1B. Critical habitat for succulent (fleshy) owl's-clover has been designated in San Joaquin, Stanislaus, Tuolumne, Merced, Mariposa, Madera, and Fresno counties. This owl's clover occurs sporadically in the San Joaquin Valley over a range of 66 miles, extending from northern Fresno County to Stanislaus County (Federal Register 1997a; CDFG 2012). This species is an annual herb, occurring in vernal pools at elevations from 80 to 2,470 ft (CDFG 2012). Pools supporting this species are often acidic. This owl's clover flowers from April to May (CNPS 2008).
- > **California Jewel-Flower.** California jewel-flower (*Caulanthus californicus*) is federally and state-listed as endangered and is RPR list 1B. No critical habitat has been designated for California jewel-flower. California jewel-flower is found from Fresno County to Santa Barbara County (CDFG 2012; USFWS 1998). California jewel-flower is an annual herb, flowering from February to May (CNPS 2008). This species is found in valley and foothill grassland, chenopod scrub, and pinyon and juniper woodland at elevations from 210 to 3,000 ft (CDFG 2012).
- > **Hoover's Spurge.** Hoover's spurge (*Chamaesyce hooveri*) is federally listed as threatened and is RPR list 1B. Critical habitat for Hoover's spurge has been designated in Tehama, Butte, Stanislaus, Tuolumne, Merced, and Tulare counties. This spurge occurs sporadically in the Central Valley, in Butte, Tehama, Glenn and Colusa counties in the north, as well as in Stanislaus and Tulare counties. This species is an annual herb, flowering in July (CNPS 2008). Hoover's spurge is found in vernal pools on volcanic mudflow or clay substrate in valley and foothill grassland, at elevations from 80 to 430 ft. (CDFG 2012).
- > **Springville Clarkia.** Springville clarkia (*Clarkia springvillensis*) is federally listed as threatened, state-listed as endangered, and is RPR list 1B. No critical habitat has been designated for Springville clarkia. This clarkia occurs in Kern County and has also been reported from San Luis Obispo County. This species is an annual herb, flowering from May to July (CNPS 2008). Springville clarkia is found on cutbanks and openings in blue oak woodland, usually on decomposed granite loam. This clarkia occurs in chaparral, cismontane woodland, and valley and foothill grassland, at elevations from 1,080 to 4,000 ft (CDFG 2012).
- > **Kern Mallow.** Kern mallow (*Eremalche kernensis*) is federally listed as endangered and is RPR list 1B. No critical habitat has been designated for Kern mallow. This mallow occurs in Kern, Tulare, San Luis Obispo, and Santa Barbara counties. This species is an annual herb, flowering from March to May (CNPS

<sup>1</sup> "At the direction of Assembly Bill 2402 (Huffman) and Governor Brown, the name of the California Department of Fish and Game has been changed to the 'California Department of Fish and Wildlife' as of January 1, 2013. Our mission has not changed. Updating all references to reflect the Department's new name will require some time, so we appreciate your understanding during this transition." – CDFW website

2008). Kern mallow is found on dry, open sandy to clayey soils, often at the edge of barren areas. This mallow occurs in chenopod scrub and valley and foothill grassland, at elevations from 230 to 1,690 ft (CDFG 2012).

- > **Striped Adobe-Lily.** Striped adobe-lily (*Fritillaria striata*) is state-listed as threatened and is RPR list 1B. No critical habitat has been designated for striped adobe-lily. This adobe-lily occurs in Tulare and Kern counties. This species is a bulbiferous, perennial herb, flowering from February to April (CNPS 2008). Striped adobe-lily is found on clay adobe soils in oak grassland, at elevations from 440 to 4,775 ft (CDFG 2012).
- > **San Joaquin Woollythreads.** San Joaquin woollythreads (*Monolopia congdonii*) is federally listed as endangered and is RPR list 1B. No critical habitat has been designated for San Joaquin woollythreads. This woollythreads occurs in from Fresno, San Benito, and Monterey counties to Kern and Santa Barbara counties. This species is an annual herb, flowering from March to April (CNPS 2008). San Joaquin woollythreads is found on alkaline or loamy plains in sandy soils. This species occurs in chenopod scrub and valley and foothill grassland, at elevations from 195 to 2,635 ft (CDFG 2012).
- > **Bakersfield Cactus.** Bakersfield cactus (*Opuntia basilaris* var. *treleasei*) is federally and state-listed as endangered and is RPR list 1B. No critical habitat has been designated for Bakersfield cactus. This cactus occurs in Kern and Los Angeles counties. This species is a succulent-stemmed small shrub, flowering in May (CNPS 2008). Bakersfield cactus is found on bluffs, low hills, and flats within grassland, in well-drained granitic sand that is coarse or cobbly. This cactus occurs in chenopod scrub, valley and foothill grassland, and cismontane woodland at elevations from 295 to 1,805 ft (CDFG 2012).
- > **San Joaquin Valley Orcutt Grass.** San Joaquin Valley Orcutt grass (*Orcuttia inaequalis*) is federally listed as threatened, state-listed as endangered, and is RPR list 1B. Critical habitat has been designated for San Joaquin Valley Orcutt grass in Mariposa, Merced, Madera, Fresno, and Tulare counties. This grass has been reported from Fresno and Tulare Counties to Solano and Stanislaus Counties, although this species has been completely extirpated from Stanislaus County (CDFG 2012). San Joaquin Valley Orcutt grass is an annual herb, flowering from April to September (CNPS 2008). This species is found at elevations from 95 to 2,500 ft, in vernal pools that form on acidic soils varying in texture from clay to sandy loam (CDFG 2012, Federal Register 2003).
- > **Hartweg's Golden Sunburst.** Hartweg's golden sunburst (*Pseudobahia bahiifolia*) is federally and state-listed as endangered and is RPR list 1B. No critical habitat has been designated for Hartweg's golden sunburst. This species has been reported from El Dorado, Fresno County to Tuolumne County, and from El Dorado and Yuba counties (CDFG 2012). Populations in Madera and Stanislaus Counties constitute 90 percent of the population (Federal Register 1997b; CDFG 2012).  
  
Hartweg's golden sunburst is an annual herb, flowering from March to April (CNPS 2008). This species is found in valley and foothill grassland and cismontane woodlands, generally on clay soils of the Amador and Rocklin soil series, at elevations from 50 to 500 ft (Federal Register 1997b, CDFG 2012). Hartweg's golden sunburst is primarily found on the north slopes of knolls, but also occurs along shady creeks and near vernal pools (CDFG 2012).
- > **San Joaquin Adobe Sunburst.** San Joaquin adobe sunburst (*Pseudobahia peirsonii*) is federally listed as threatened, state-listed as endangered, and is RPR list 1B. No critical habitat has been designated for San Joaquin adobe sunburst. This species occurs in Fresno, Tulare, and Kern counties. San Joaquin

adobe sunburst is an annual herb, flowering from March to April (CNPS 2008). This species is found on heavy clay soil in grassy valley floors and rolling foothills. San Joaquin adobe sunburst is occurs in valley and foothill grassland and cismontane woodland, at elevations from 275 to 2,625 ft (CDFG 2012).

## F.1.2 Wildlife

### *Invertebrates*

- > **Conservancy Fairy Shrimp.** The Conservancy fairy shrimp (*Branchinecta conservatio*) is federally listed as threatened. Critical habitat for the Conservancy fairy shrimp has been designated in Tehama, Butte, Solano, Stanislaus, Merced, Mariposa, Madera, and Ventura counties (USFWS 2005). This fairy shrimp occurs within a few isolated populations distributed over a large portion of California's Central Valley and in southern California (USFWS 2005a). In the San Joaquin Valley, Conservancy fairy shrimp are known to occur in the Grasslands Ecological Area in Merced County, and at a single location in Stanislaus County. Critical habitat for Conservancy fairy shrimp encompasses 161,786 acres across Butte, Colusa, Mariposa, Merced, Solano, Stanislaus, Tehama, and Ventura counties (USFWS 2006).

The conservancy fairy shrimp is endemic to the grassland and vernal pool habitats of California's Central Valley. This species is adapted to ephemeral conditions and can be found in large, turbid pools at elevations from 15 to 5,600 ft (USFWS 2005; CDFG 2012). Fairy shrimp are adapted for survival in water bodies that are transient and their cysts (protected eggs) can withstand long dry periods. They require cool waters early in the rainy season for hatching and are highly susceptible to contaminants. Dispersal of cysts is thought to occur by animal vectors, including grazing animals or waterfowl.

- > **Vernal Pool Fairy Shrimp.** The vernal pool fairy shrimp is federally listed as threatened. Critical habitat for the vernal pool fairy shrimp has been designated from Shasta County to Tulare County in the Central Valley and from Solano County to Ventura County west of the Central Valley (USFWS 2005). This fairy shrimp is currently found in 28 counties across the Central Valley and coast ranges of California (USFWS 2005a). Despite a wider distribution than Conservancy or longhorn fairy shrimp, the vernal pool fairy shrimp is generally uncommon throughout its range and rarely abundant where it does occur. Critical habitat for vernal pool fairy shrimp encompasses 597,821 acres across Jackson County, Oregon, and Alameda, Amador, Butte, Contra Costa, Fresno, Kings, Madera, Mariposa, Merced, Monterey, Napa, Placer, Sacramento, San Benito, San Joaquin, San Luis Obispo, Santa Barbara, Shasta, Solano, Stanislaus, Tehama, Tulare, Ventura, and Yuba counties. Primary Constituent Elements are habitat elements that provide: 1) topographic features characterized by mounds and swales and depressions, 2) depressional features including isolated vernal pools, 3) Sources of food, and 4) structure within vernal pools.
- > **Valley Elderberry Longhorn Beetle.** Valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*) is federally listed as threatened. Critical habitat has been designated for the valley elderberry longhorn beetle, but critical habitat for this beetle is in the Sacramento area, far outside of the Project Area (Federal Register 1980). According to a recent status review of this species, it has recovered sufficiently to warrant delisting (USFWS 2006).

Since 1984 when the valley elderberry longhorn beetle was listed as threatened, 190 populations have been reported from Shasta County to Fresno County (USFWS 2006). Over 1,500 acres of valley elderberry longhorn beetle habitat have been restored and 50,000 acres of riparian habitat have been

protected. The valley elderberry longhorn beetle is endemic to California's Central Valley and feeds primarily on blue elderberry (*Sambucus mexicana*), although it will also utilize other elderberry species. This species generally lays eggs in the bark of elderberry trees that are 2 to 8 inches in diameter and prefers stressed plants (CDFG 2012; USFWS 1984).

- > **Vernal Pool Tadpole Shrimp.** The vernal pool tadpole shrimp is federally listed as endangered. Critical habitat for the vernal pool fairy tadpole has been designated from Shasta and Tehama Counties to Tulare County in the Central Valley and from Solano County to Santa Clara County in the central coast area (USFWS 2005). This tadpole shrimp is currently distributed across the Central Valley of California and in the San Francisco Bay area, but its distribution is greatly reduced from historical times due to destruction of its habitat (USFWS 2005a). Vernal pool habitats in the Central Valley occupy about 25 percent of their former area (Holland 1998, as cited in USFWS 2005a). In the San Joaquin Valley, vernal pool tadpole shrimp known occurrences include sightings within the Grasslands Ecological Area and private land in Merced County and from single locations in Tulare and Kings Counties (USFWS 2005a). Critical habitat for vernal pool tadpole shrimp encompasses 228,785 acres across Alameda, Amador, Butte, Colusa, Fresno, Kings, Madera, Mariposa, Merced, Sacramento, Shasta, Solano, Stanislaus, Tehama, Tulare, Yolo, and Yuba counties. Primary Constituent Elements are habitat elements that provide: 1) topographic features characterized by mounds and swales and depressions, 2) depressional features including isolated vernal pools, 3) Sources of food, and 4) structure within vernal pools.

### ***Fish***

- > **Green Sturgeon.** The southern distinct population segment (DPS) of green sturgeon (*Acipenser medirostris*) is federally listed as threatened. The southern DPS includes all coastal and Central Valley populations south of the Eel River, including the Sacramento River (NMFS 2003). Although the southern DPS is considered a separate population from the northern DPS based on genetic data and spawning locations, the range of the northern DPS and southern DPS outside of spawning areas tends to overlap (Israel et al. 2004; Moser and Lindley 2007).

In 2009, NOAA Fisheries designated critical habitat for the southern DPS of green sturgeon, including coastal United States marine waters within 60 fathoms depth from Monterey Bay, California North to Cape Flattery, Washington. The designation includes the Sacramento River, lower Feather River, lower Yuba River, the Delta and San Francisco Estuary, the lower Columbia River Estuary, as well as Humboldt Bay, Coos Bay, Winchester Bay, Yaquina Bay, Nehalem Bay, Willapa Bay, and Grays Harbor. The estuary portion of the Eel, Klamath, and Trinity rivers was specifically excluded from the critical habitat designation (NMFS 2009a).

Primary Constituent Elements of habitat considered essential for the conservation of the southern DPS of green sturgeon in freshwater riverine systems include: 1) food resources, 2) substrate type or size, 3) water flow, 4) water quality, 5) migratory corridor, 6) water depth, and 7) sediment quality. For estuarine areas, all of the same PCEs apply except substrate type or size. In marine areas, PCEs considered essential for conservation include: 1) migratory corridor, 2) water quality, and 3) food resources (NMFS 2009a).

- > **Delta Smelt.** Delta smelt (*Hypomesus transpacificus*) is federally listed as threatened and state-listed as endangered. Designated critical habitat for the delta smelt includes all water and submerged lands below the ordinary high water mark and the entire water column bounded by and contained in Suisun

Bay (including the contiguous Grizzly and Honker Bays); the length of Goodyear, Suisun, Cutoff, First Mallard (Spring Branch), and Montezuma sloughs; and the existing contiguous waters contained within the legal Delta (USFWS 1994, 2008). The primary constituent elements of Delta smelt critical habitat are: 1) physical habitat consisting of adequate spawning substrate, 2) water of quality suitable support all life stages, 3) river flow to facilitate spawning migrations and transport of offspring rearing habitats; this element includes Delta inflow and outflow, which influence adult, larval, and juvenile migrations, and 4) salinity to support nursery habitat (USFWS 2012).

- > **Central Valley Steelhead.** The Central Valley DPS of steelhead (*Oncorhynchus mykiss*) is federally and state-listed as threatened. Designated critical habitat for Central Valley steelhead includes stream reaches of the Sacramento, Feather, and Yuba rivers, and Deer, Mill, Battle, and Antelope creeks in the Sacramento River basin; the lower San Joaquin River to the confluence with the Merced River, including its tributaries, and the waterways of the Delta (NMFS 2006b). The primary constituent elements of Central Valley steelhead critical habitat are: 1) spawning habitat, including spawning substrate, and adequate water quantity and quality, 2) freshwater rearing habitat including floodplain connectivity, and natural escape and velocity cover, 3) freshwater migration corridors free of obstructions, with water quantity and quality conditions that allow movement, and 4) estuarine areas with adequate water quality and quantity to supporting juvenile and adult physiological transitions between fresh and salt water (NMFS 2009b).
- > **Central Valley Spring-Run Chinook Salmon.** The Central Valley spring-run DPS of Chinook salmon (*Oncorhynchus tshawytscha*) is federally and state-listed as threatened. Critical habitat Central Valley spring-run Chinook salmon encompasses the Feather and Yuba Rivers, Big Chico, Butte, Deer, Mill, Battle, Antelope, and Clear creeks, the Sacramento River, as well as portions of the northern Delta (NMFS 2005). The PCEs considered essential for conservation include spawning sites, rearing sites, migration corridors, estuarine areas, and nearshore marine areas (NMFS 2009b)..
- > **Sacramento River Winter-Run Chinook Salmon.** The Sacramento River winter-run DPS of Chinook salmon (*Oncorhynchus tshawytscha*) is federally and state-listed as endangered. Winter-run Chinook salmon critical habitat extends from the Sacramento River at Keswick Dam to Chipps Island within the Delta west to the Carquinez Bridge, including Honker Bay, Grizzly Bay, Suisun Bay, and Carquinez Strait, San Pablo Bay west of the Carquinez Bridge, and the San Francisco Estuary to the Golden Gate Bridge north of the San Francisco Bay (NMFS 1993, 2009b). The physical and biological features essential for the conservation of the species are: 1) access to spawning areas in the upper Sacramento river, 2) the availability of clean gravel for spawning substrate, 3) adequate river flows for successful spawning, incubation of eggs, fry development and emergence, and downstream transport of juveniles, 4) water temperatures for successful spawning, egg incubation, and fry development, 5) habitat areas and adequate prey that are not contaminated, 6) riparian habitat that provides for successful juvenile development and survival, and 7) access downstream so that juveniles can migrate from spawning grounds to San Francisco Bay and the Pacific Ocean (NMFS 2009b).

### **Amphibians**

- > **California Tiger Salamander.** California tiger salamander (*Ambystoma californiense*) is federally and state-listed as threatened. Critical habitat has been designated for the central population of the California tiger salamander in 20 counties, from Yolo and Solano counties south to Tulare, Kings, and

San Luis Obispo counties (Federal Register 2005a). The California tiger salamander is endemic to central California. This species is found in vernal pool complexes in Santa Barbara and Sonoma Counties, in the Central Valley from Colusa County south to Kern County, and in coast ranges from the San Francisco Bay area south to the Temblor Range.

California tiger salamander habitat has two distinct components: 1) rain pools used for spawning and 2) burrow complexes of California ground squirrel (*Spermophilus beecheyi*) and Botta's pocket gopher (*Thomomys bottae*) in grasslands and sparse oak woodlands used by adults for most of the year. This salamander spends about 80 to 90 percent of the year in mammal burrows to prevent desiccation, especially during the hot dry summer season that is characteristic of the majority of its range in California. Typically, California tiger salamanders emerge from rodent burrows several times on rainy nights during the autumn and winter, and migrate to traditional spawning pool sites filled by winter rains (Stebbins 1951). Eggs are deposited singly or in small clusters on submerged plant stems, hatching within a few days. After spawning, the adult salamanders return to the rodent burrow complexes, and move deep underground. The cycle commences again with the first heavy rains of autumn. Larvae metamorphose in late spring, not long before the spawning pools begin to dry out.

- > **California Red-Legged Frog.** California red-legged frog (*Rana draytonii*) is federally listed as threatened and is a state species of special concern. Designated critical habitat for the California red-legged frog includes 1,636,609 acres in 22 counties, extending from Butte and Mendocino counties to Merced County in the Central Valley and Los Angeles County along the coast (FR 2010).

Historically, the California red-legged frog occurred in coastal mountains at elevations up to 5,200 ft from Marin County southward to northern Baja, California, and along the floor and foothills of the Central Valley from Shasta County southward to Kern County (Jennings et al. 1992). Currently, this subspecies persists below 3,500 ft in small numbers in some of its historic range in the Central Valley, Sacramento River Valley and foothills and south of Ventura County. It remains fairly common in many coastal areas north of Ventura County (USFWS 2002).

The California red-legged frog breeds from November to March. Egg masses are attached to emergent vegetation (Jennings and Hayes 1994), and hatch within 14 days. Metamorphosis generally occurs between July and September. This large frog is found in habitats characterized by dense, shrubby, riparian vegetation associated with deep (0.7 meter), still, or slow-moving water (Jennings 1988; Jennings and Hayes 1988). Emergent vegetation is important for cover as well as for egg attachment (Storer 1925). In aquatic habitats, this frog occurs primarily in areas having pools approximately 3 ft deep, with adjacent dense emergent or riparian vegetation (Jennings and Hayes 1988). Upland habitats are used by dispersing frogs during periods of wet weather (USFWS 2002). Adult frogs move seasonally between their egg-laying sites and foraging habitat, but generally they rarely move large distances from their aquatic habitat.

- > **Southern Mountain Yellow-Legged Frog.** Southern mountain yellow-legged frog (*Rana muscosa*) is a federally and state-listed as endangered. This frog is found endemic to California, from Fresno, Tulare, and Inyo counties to Los Angeles and Riverside counties. This species occupies streams (except the smallest), ponds, and lakes at moderate to high elevations, particularly those without predatory fish. (Jennings and Hayes 1994).



### Reptiles

- > **Blunt-Nosed Leopard Lizard.** Blunt-nosed leopard lizard (*Gambelia sila*) is federally and state-listed as endangered and is a state fully protected species. No critical habitat has been designated for the blunt-nosed leopard lizard. The blunt-nosed leopard lizard is distributed throughout Fresno, Kern, Kings, Santa Barbara, San Luis Obispo, San Benito, Madera, and Tulare counties. The blunt-nosed leopard prefers sparsely vegetated habitats such as alkali and desert scrub in areas of low relief. This species utilizes the abandoned burrows of smaller mammals such as squirrels and kangaroo rats for cover from extreme temperatures and predators (CDFG 2012; USFWS 1998).
- > **Giant Garter Snake.** Giant garter snake (*Thamnophis gigas*) is federally and state-listed as threatened. No critical habitat has been designated for giant garter snake. The giant garter snake occurs in Central Valley waterways Fresno, Sacramento, Merced, Solano, Yolo, Sutter, Butte, Glen, Colusa, and Kern Counties. The giant garter snake prefer wetlands and waterways such as fresh water marshes, irrigation canals, low gradient streams, ponds, and small lakes. This species is the most aquatic of all garter snakes in California and requires permanent water, wetland vegetation for cover and forage, and upland vegetation for basking and cover (USFWS 1999; CDFG 2012).

### Birds

- > **Swainson's Hawk.** Swainson's hawk (*Buteo swainsoni*) is state-listed as threatened. In California, this species is restricted to portions of the Central Valley and Great Basin regions where suitable nesting and foraging habitat is still available. Central Valley populations are densest from Colusa County to San Joaquin County (Anderson, et al., 2007).

Swainson's hawk requires large, open grasslands with abundant prey in association with suitable nest trees. Suitable foraging areas include native grasslands or lightly grazed pastures, alfalfa and other hay crops, and certain grain and row croplands. The majority of Swainson's hawk territories in the Central Valley are associated with riparian systems adjacent to suitable foraging habitats. Swainson's hawk often nests peripherally to riparian systems, but also uses lone trees or groves of trees in agricultural fields and rangelands. Valley oak, Fremont cottonwood, walnut, and large willow with an average height of about 60 ft are the most commonly used nest trees in the Central Valley. Breeding occurs late March to late August, with peak activity from late May through July (Zeiner et al. 1990a).

- > **Willow Flycatcher.** Southwestern willow flycatcher (*Empidonax traillii extimus*) is federally listed as endangered. The entire species (*Empidonax traillii*) is state-listed as endangered. No critical habitat has been designated for thus species. Although this species was formerly common throughout California in the summer, breeding populations of this species in California are now found only along the Kern, Santa Ynez, Santa Margarita, and San Luis Rey rivers in southern California, and in isolated meadows in the Sierra Nevada. The preferred habitat for this flycatcher includes dense riparian habitats along rivers, streams, or other wetlands. Vegetation is dominated by dense willow, and may include an overstory of cottonwood, tamarix, or other larger trees. Breeding habitats are less than 20 yards from water or very saturated soil.
- > **California Condor.** California condor (*Gymnogyps californianus*) is federally and state-listed as endangered and is a state fully protected species. No critical habitat has been designated for the California condor. This species was a permanent resident of the semi-arid, rugged mountain ranges surrounding the southern San Joaquin Valley, including the Coast Ranges from Santa Clara County

south to Los Angeles County, the Transverse Ranges, Tehachapi Mountains, and southern Sierra Nevada. The historical range of the condor included the southern Sierra foothills in Kern and Tulare Counties, where non-breeding birds often spent the spring and summer. By 1987, the condor population had declined drastically, and all remaining individuals of the species were captured from the wild and used in a captive-breeding program. In 1992, young adults were released in Ventura County. Since then, more condors have been released in Monterey, Santa Barbara and San Luis Obispo counties and in Arizona.

The California condor requires vast expanses of open savannah, grasslands, and foothill chaparral, with cliffs, large trees, and snags for roosting and nesting. It forages over wide areas of open rangelands and roosts on cliffs and in large trees and snags. This species feeds on carcasses in open areas, as it must have room to land and take off. The condor nests in caves or on large ledges. It occurs mostly between sea level and 9,000 ft, and nests from 2,000 to 6,500 ft (Zeiner et al. 1990a).

### **Mammals**

- > **Nelson's Antelope Squirrel.** Nelson's antelope squirrel (*Ammospermophilus nelsoni*) is state-listed as threatened. Historically, this species was found from Merced County to the southern end of the San Joaquin Valley, but sizable populations currently are only found in western Kern County and eastern San Luis Obispo County. Nelson's antelope squirrel is found in sparsely vegetated areas in broken terrain, at elevations from 200 to 1,200 ft elevation. This species prefers areas with loam soils in which to burrow (CDFG 2012).
- > **Giant Kangaroo Rat.** Giant kangaroo rat (*Dipodomys ingens*) is federally and state-listed as endangered. No critical habitat has been designated for giant kangaroo rat. This kangaroo rat historically was found from Merced County to Kern County and the adjacent portions of San Luis Obispo and Santa Barbara counties. This species primarily occupies annual grassland, although alkali scrub also provides marginal habitat. Giant kangaroo rat needs relatively level, sandy loam soils in which to excavate its burrows (CDFG 2012).
- > **Fresno Kangaroo Rat.** Fresno kangaroo rat (*Dipodomys nitratoides exilis*) is federally and state-listed as endangered. No critical habitat has been designated for the Fresno kangaroo rat. The Fresno kangaroo rat was historically found on the floor of the San Joaquin Valley in Fresno, Madera, and Kings Counties (CDFG 2012). Twelve known occurrences are recorded in the CNDDDB, of which three are considered extirpated and another three are possibly extirpated (CDFG 2012). A single male Fresno kangaroo rat was captured twice in autumn, 1992, on the Alkali Sink Ecological Reserve, west of Fresno (USFWS 1998). Trapping in this reserve in subsequent years resulted in no captures, and trapping elsewhere in historical habitat also resulted in no captures (USFWS 1998).

The Fresno kangaroo rat is a permanent resident of alkali sink scrub – open native grasslands in western Fresno County (Federal Register 1985). This kangaroo rat primarily feeds on seeds of annual forbs and grasses. The Fresno kangaroo rat requires somewhat level terrain composed of sandy loam soils for underground burrows and ground cover consisting of herbaceous and scrub vegetation (Zeiner et al. 1990a). In general, kangaroo rats do not prefer dense vegetation, and this is assumed to be the case for Fresno kangaroo rat. While some grazing may be beneficial to this species, heavy grazing pressure has been associated with decreased populations of the Fresno kangaroo rat (Koos 1977).

- > **Tipton Kangaroo Rat.** Tipton kangaroo rat (*Dipodomys nitratooides nitratooides*) is federally and state-listed as endangered. No critical habitat has been designated for the Tipton kangaroo rat. This kangaroo rat historically was found in the Tulare Lake Basin, from Fresno County to Kern County. This species occupies saltbush scrub and sink scrub communities. In these communities, soil mounds often develop at the base of shrubs. Tipton kangaroo rat digs burrows in these mounds and needs soft soils above the zone of seasonal flooding (CDFG 2012).
- > **Buena Vista Lake Ornate Shrew.** Buena Vista Lake ornate shrew (*Sorex ornatus relictus*) is federally listed as endangered and is a state species of special concern. Critical habitat has been proposed for the Buena Vista Lake ornate shrew, but has not been designated. This shrew historically was found from Kings County to Kern County in the Tulare Lake Basin and Buena Vista Lake Basin. This subspecies occupies marshes and riparian areas with moist soil (CDFG 2012). Based on the preferences of the species in general, this subspecies is expected to prefer densely vegetated areas with logs, litter and stumps are used for cover (Bolster 1998).
- > **San Joaquin Kit Fox.** San Joaquin kit fox (*Vulpes macrotis mutica*) is federally listed as endangered and state-listed as threatened. No critical habitat has been designated for the San Joaquin kit fox. The San Joaquin kit fox is found primarily in the lowlands of the San Joaquin Valley of California within Kings, Tulare, Fresno, Madera, San Benito, Merced, Stanislaus, and Monterey Counties. This fox is also found in several counties in the coast mountain ranges, extending north to San Joaquin, Alameda, and Contra Costa Counties (USFWS 1998; CDFG 2012).

The San Joaquin kit fox is a permanent resident of arid regions in southern California, preferring loose textured soils for excavation of dens. Scattered, shrubby vegetation provides suitable habitat for the San Joaquin kit fox (Zeiner et al. 1990a). This fox species relies on subterranean dens for breeding and escape cover from potential predators. Dens are excavated in loose-textured soils, generally in areas with low to moderate relief. Kit fox will also utilize existing burrows excavated by rabbits, ground squirrels, badgers (*Taxidea taxus*), and on occasion will use man-made structures for denning such as well casings, culverts, and abandoned pipelines.

## A.2 References

- Anderson, R., R. Anderson, M. Bradbury, C. Chun, J. Dinsdale, J. Estep, K. Fien, and R. Schlorff. 2007. California Swainson's Hawk Inventory: 2005-2006 DFG Staff Report Final Report Contract P0485902. UC Davis Wildlife Health Center Department of Fish and Game Resource Assessment Program. Available at: <http://www.dfg.ca.gov/rap/projects/swainsonhawk/>.
- Bolster, B.C., editor. 1998. Terrestrial Mammal Species of Special Concern in California. Draft Final Report prepared by P.V. Brylski, P.W. Collins, E.D. Pierson, W.E. Rainey and T.E. Kucera. Report submitted to California Department of Fish and Game Wildlife Management Division, Nongame Bird and Mammal Conservation Program for Contract No.FG3146WM. Available at: <http://www.dfg.ca.gov/wildlife/nongame/ssc/1998mssc.html>.
- California Native Plant Society (CNPS). 2008. Inventory of rare and endangered plants (online edition, v7-08c). California Native Plant Society. Sacramento, CA. Available at <http://www.cnps.org/inventory>.

- Federal Register. 1980. 50 CFR Part 17, Page 52803-52807. Listing the valley elderberry longhorn beetle as a threatened species with critical habitat, final rule. August 8 (Volume 45, Number 155).
- Federal Register. 1997a. 50 CFR Part 17, Page 14338-14352. Endangered and threatened wildlife and plants; determination of endangered status for three plants and threatened status for five plants from vernal pools in the Central Valley of California. March 26 (Volume 62, Number 58).
- Federal Register. 1997b. 50 CFR Part 17, Page 5542-5551. Endangered and threatened wildlife and plants; determination of endangered status for *Pseudobahia bahiifolia* (Hartweg's golden sunburst) and threatened status for *Pseudobahia peirsonii* (San Joaquin adobe sunburst), two grassland plants from the Central Valley of California February 6 (Volume 62, Number 25).
- Federal Register. 2005. 50 CFR Part 17, Page 46924-46999. Endangered and threatened wildlife and plants; final designation of critical habitat for four vernal pool crustaceans and eleven vernal pool plants in California and Southern Oregon; evaluation of economic exclusions from August 2003 Final Designation. August 11 (Volume 70, Number 154).
- Federal Register. 2010. 50 CFR Part 17, Page 12816-12915. Endangered and threatened wildlife and plants; revised designation of critical habitat for the California red-legged frog. March 17 (Volume 75, Number 15).
- Israel, J. J. Cordes, M. Blumberg, B. 2004. Geographic Patterns of Genetic Differentiation among Collections of Green Sturgeon. *North American Journal of Fisheries Management*, 24:922–931.
- Jennings, M.R., and M.P. Hayes. 1988. Habitat correlates of distribution of the California red-legged frog (*Rana aurora draytonii*) and the foothill yellow-legged frog (*Rana boylei*): Implications for management. In *Proceedings of the Symposium on the Management of Amphibians, Reptiles, and Small Mammals in North America*, R. Sarzo, K.E. Severson, and D.R. Patton, technical coordinators, pp. 144-158. USDA Forest Service General Technical Report RM-166.
- Koos, K.A. 1977. The Fresno kangaroo rat population survey. California Department of Fish and Game, Sacramento.
- Moser, M. and S. Lindley. 2007. Use of Washington Estuaries by Subadult and Adult Green Sturgeon. *Environmental Biology of Fishes* 79:243-253.
- National Marine Fisheries Service (NMFS). 1993. Final Rule: Designated Critical Habitat; Sacramento River Winter-Run Chinook Salmon. *Federal Register* 58: 33212-33219.
- National Marine Fisheries Service (NMFS). 2003. 12-Month Finding on a Petition to List North American Green Sturgeon as a Threatened or Endangered Species. *Federal Register* 68: 4433-4441.
- National Marine Fisheries Service (NMFS). 2006. Endangered and Threatened Species: Final Listing Determinations for 10 Distinct Population Segments of West Coast Steelhead; Final Rule. *Federal Register* 71: 834-862.
- National Marine Fisheries Service (NMFS). 2009a. Final Rulemaking to Designate Critical Habitat for the Threatened Southern Distinct Population Segment of North American Green Sturgeon. *Federal Register* 74: 52300-52348.

- National Marine Fisheries Service (NMFS). 2009b. Biological Opinion on the Long-Term Central Valley Project and State Water Project Operations Criteria and Plan 151422SWR04SA9116: BFO. October 22, 2004
- Stebbins, R.C. 1972. Amphibians and Reptiles of California. Berkeley and Los Angeles: University of California Press.
- Storer, T.I. 1925. A synopsis of the Amphibia of California. University of Publications in Zoology 27:1-342.
- U.S. Fish and Wildlife Service (USFWS). 1984. Recovery Plan for the Valley Elderberry Longhorn Beetle. Portland, OR.
- U.S. Fish and Wildlife Service (USFWS). 1994. Critical Habitat Determination for the Delta Smelt. Federal Register 59: 65256-65279.
- U.S. Fish and Wildlife Service (USFWS). 1998. Recovery Plan for Upland Species of the San Joaquin Valley, California. Portland, OR.
- U.S. Fish and Wildlife Service (USFWS). 1999. Draft Recovery Plan for the Giant Garter Snake (*Thamnophis gigas*). Portland, OR. July.
- U.S. Fish and Wildlife Service (USFWS). 2002. Recovery Plan for the California Red-Legged Frog (*Rana aurora draytonii*). Portland, OR.
- U.S. Fish and Wildlife Service (USFWS). 2006. Valley Elderberry Longhorn Beetle (*Desmocerus californicus dimorphus*) 5-Year Review: Summary and Evaluation. Sacramento, CA.
- U.S. Fish and Wildlife Service (USFWS). 2008. Formal Endangered Species Act Consultation on the Proposed Coordinated Operations of the Central Valley Project (CVP) and State Water Project (SWP). Biological Opinion. December 15, 2008.
- Zeiner, D.C., W.F. Laudenslayer, Jr., K.E. Mayer, and M. White, eds. 1988. California's Wildlife Volume I: Amphibians and Reptiles. California Department of Fish and Game, Sacramento.
- Zeiner, D.C., W.F. Laudenslayer, Jr., K.E. Mayer, and M. White, eds. 1990a. California's wildlife: Volume III: Mammals. California Department of Fish and Game, Sacramento.
- Zeiner, D.C., W.F. Laudenslayer, Jr., K.E. Mayer, and M. White, eds. 1990b. California's Wildlife: Volume II: Birds. California Department of Fish and Game, Sacramento