

US EPA ARCHIVE DOCUMENT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

March 13, 2015

Tim Rust
Bureau of Reclamation
2800 Cottage Way
Sacramento, CA 95823

Subject: Draft Environmental Impact Statement for the Central Valley Project Municipal and Industrial Water Shortage Policy, Various Counties, California (CEQ# 20140333)

Dear Mr. Rust:

The Environmental Protection Agency has reviewed the Draft Environmental Impact Statement for the above referenced document. Our review is pursuant to the National Environmental Policy Act, Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act.

The Draft EIS evaluates the potential environmental impacts of Reclamation's proposal to implement an update to its 2001 Municipal and Industrial Water Shortage Policy, which defines water shortage terms and conditions and establishes allocations for Central Valley Project M&I water service contractors in severe or continuing droughts. The severity of the current drought and its negative effects on California's ecosystems, economies, and people highlight the need for an M&I Water Shortage Policy that provides clear guidelines for allocation of CVP water. Given the highly variable conditions of each water year and the many needs of the CVP contractors, EPA commends Reclamation for writing a document that clearly articulates the uncertainties inherent in water shortage planning and that discusses environmental impacts in the context of existing conditions, climate change, the regulatory environment, and the many large water infrastructure projects currently in the planning stages in California.

Based on our review, we have rated the Draft EIS and all alternatives as "Lack of Objections" (LO; see enclosed Summary of EPA Rating Definitions). We recommend that the Final EIS include clarifications and an update to help inform the decision making process. Please see the enclosed Detailed Comments.

When the Final EIS is released for public review, please send one hard copy and one CD to the address above (Mail Code: ENF 4-2). If you have any questions, please contact me at 415-972-3521 or contact Stephanie Skophammer, the lead reviewer for this project, at 415-972-3098 or at skophammer.stephanie@epa.gov.

Sincerely,

/s/

Kathleen Martyn Goforth, Manager
Environmental Review Section

Enclosures:
Summary of EPA Rating Definitions
Detailed Comments

SUMMARY OF EPA RATING DEFINITIONS*

This rating system was developed as a means to summarize the U.S. Environmental Protection Agency's (EPA) level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the Environmental Impact Statement (EIS).

ENVIRONMENTAL IMPACT OF THE ACTION

"LO" (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

"EC" (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

"EO" (Environmental Objections)

The EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

"EU" (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

ADEQUACY OF THE IMPACT STATEMENT

"Category 1" (Adequate)

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

"Category 2" (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

"Category 3" (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640, Policy and Procedures for the Review of Federal Actions Impacting the Environment

Provide Additional Details Regarding the Project Description

The Draft EIS evaluates four Action Alternatives that represent a range of water shortage sharing conditions for CVP contractors. The Draft EIS indicates that Reclamation will identify a preferred alternative in the Final EIS. Chapter 1 states that possible decision outcomes include pursuing the No Action alternative or approving Alternative 2, 3, 4 or 5 (p. 1-12); however, Chapter 2 indicates that Reclamation is considering the potential “to mix and match elements of the alternatives, if needed, to create an alternative that would reduce environmental impacts and increase environmental benefits” (p. 2-2).

***Recommendation:** EPA encourages Reclamation to clearly define and describe the selected alternative and its component features in the Final EIS. If the selected alternative is a composite of elements of the alternatives identified in the Draft EIS, evaluate the selected alternative as a discrete alternative in the FEIS (rather than simply referencing the impacts of the individual elements) in order to determine whether the “mixing and matching” of elements would result in impacts that differ in any way from a simple compilation of the impacts of the individual elements.*

Section 1.8 of the Draft EIS indicates that, in addition to supporting decision making among Water Shortage Policy alternatives, “other uses of this document” include taking additional actions to implement the selected policy, including CVP water delivery reductions; applicable CVP long-term contract renewals; and real-time decisions to change upstream flows, Delta outflows, and pumping, consistent with existing CVP operating rules. This section is puzzling because there is no further discussion of these elements in Chapter 2 Description of Alternatives. Long term contract renewals usually require their own NEPA documentation and it is not clear which contract renewals are included in this EIS and how impacts from any such decision were carried through in the NEPA analysis.

***Recommendation:** Clarify section 1.8 of the EIS and discuss any additional aspects of the project alternatives in Chapter 2.*

In general, the resource descriptions for Alternative 4 (Updated M&I Water Shortage Policy) state that there would be no difference between Alternative 4 and the No Action Alternative (see Table 3-1); however, the description of Alternative 4, beginning on page 2-12, indicates that some proposed changes to the Water Shortage Policy may have potential impacts. For example, one of the proposed actions is to change the water reductions to be based on historical use rather than Contract Totals (p. 2-15). Since no examples are given, it is unclear what impacts, if any, this would have on water supply.

***Recommendation:** In the Final EIS, evaluate the potential for the proposed methodology change that is proposed in Alternative 4 to have an impact on water supply.*

Update the Climate Change Discussion

On December 18, 2014, the Council on Environmental Quality released revised draft guidance for public comment that describes how Federal departments and agencies should consider the effects of greenhouse gas emissions and climate change in their NEPA reviews. The revised draft guidance supersedes the draft greenhouse gas and climate change guidance released by CEQ in February 2010, which is referenced in the DEIS under Regulatory Framework for the Climate Change chapter. This new draft guidance explains that agencies should consider both the potential effects of a proposed action on

climate change, as indicated by its estimated greenhouse gas emissions, and the implications of climate change for the environmental effects of a proposed action.

***Recommendations:** Update the Regulatory Setting section of the Climate Change chapter to reflect the new CEQ draft guidance released on December 14, 2014.*