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In reply refer to: M0915-015 and L2015-53

September 29, 2015

Mr. Ben Nelson  
Bureau of Reclamation  
Bay-Delta Office  
801 I Street, Suite 140  
Sacramento, CA 95814–2536

**Via Facsimile (916) 414–2439**  
**Via Email [bcnelson@usbr.gov](mailto:bcnelson@usbr.gov)**

RE: Comments Regarding Draft Environmental Impact Statement for the Coordinated Long-Term Operation of the Central Valley Project and State Water Project

Dear Mr. Nelson:

Thank you for the opportunity to provide comments to the U.S. Bureau of Reclamation (Reclamation) on the Draft Environmental Impact Statement (DEIS) for the Coordinated Long-Term Operation of the Central Valley Project (CVP) and State Water Project (SWP) (Project). The El Dorado Irrigation District (EID) has vital interests in the Project and its environmental review as a holder of one CVP Water Service Contract (WSC) and two Warren Act Contracts (WAC), as a proposed subcontractor for a second WSC at Folsom Reservoir, and as the only water purveyor that does not receive its Folsom Reservoir supplies from federal pumping facilities.

EID currently holds a long-term WSC in the amount of 7,550 acre-feet (AF) annually. In addition to this CVP supply in Folsom Reservoir, EID also holds a long-term WAC in the amount of 4,560 AF annually associated with long-held water rights for which EID has relocated its points of diversion or redirection to Folsom Reservoir. Further, EID holds a 5-year WAC in the amount 8,500 AF annually, which represents a portion of a 17,000-AF water right EID holds. EID and Reclamation have been working together for the past decade to enter into a long-term WAC for the full quantity of this right. In addition to these supplies, EID is a proposed subcontractor to El Dorado County Water Agency (EDCWA) for a proposed WSC as required by Public Law 101-514, Section 206(b)(1)(B). EDCWA has been pursuing that WSC with



Reclamation since the early 1990s. These existing and future supplies will be withdrawn from Folsom Reservoir through EID's intake facilities that have been in operation since 1961.

The following comments address EID's concerns about inconsistencies and errors in how the WSC and WAC are addressed and characterized in the DEIS, and also address Reclamation's requirement to construct a temperature control device or equivalent contribution to a regional solution in association with EID's pursuit of its non-federal supplies in Folsom Reservoir.

#### Current and Future Demands and Supplies of El Dorado Irrigation District

In Chapter 5 *Water Resources and Water Supplies*, the DEIS states that assumptions related to municipal water demands are based upon review of Urban Water Management Plans (UWMPs) (page 5-67). Future supplies were compared to the No Action Alternative and the Second Basis of Comparison assumptions to determine if the projects were reasonable and certain to occur by 2030. Reclamation indicated that projects that had undergone environmental review or met other certain specified conditions were included in the future water supply assumptions for 2030 in the No Action Alternative and the Second Basis of Comparison. Projects described in the UWMPs that are currently under evaluation were included in the Cumulative Effects analysis for future water supplies. Finally, in the DEIS Reclamation indicated that future water supplies considered for municipalities by 2030 were presented in Appendix 5D *Municipal and Industrial Water Demands and Supplies*.

Although Chapter 5 of the DEIS describes this decision process for future water supplies, Appendix 5D introduces two additional terms –“Possible Future Water Supplies” and “Potential Future Water Supplies” – but does not appear to define these terms or explain if either or both are included within the roster of projects Reclamation has determined to be reasonable and certain to occur by 2030. Inclusion of the descriptors “possible” and “potential” implies there may be some question as to whether projects in these categories would proceed. In the case of the 17,000 AF WAC and 15,000 AF WSC, these contracts should be categorized as “projected” or “planned” if there is a need to qualify or subcategorize future Reclamation Actions.

EID completed its environmental review of the 17,000-AF WAC by filing a California Environmental Quality Act (CEQA) Notice of Determination on July 13, 1999. El Dorado County Water Agency (EDCWA) completed its CEQA review of the 15,000-AF CVP WSC by filing its NOD on January 20, 2011. Therefore, the CEQA obligations for these contracts were satisfied prior to initiation of environmental review (determined by issuance of the Notice of Intent) for the Project and these contracts have been included in UWMPs for many years.



Further, Reclamation consulted with the National Marine Fisheries Service (NMFS) regarding both the WAC and WSC and received Endangered Species Act determination concurrence for full execution of both actions on May 22, 2014 and June 2, 2014, respectively.

Given this information, these contracts should be included with the Municipal Water Supply Projects that, together with a host of other actions, would occur with or without the Project as described on pages ES-9 and ES-10. However, for unknown reasons, Reclamation has, at least in some portions of the DEIS (pages 3-34, 3-41, 5-126, and 5-181 among potential others), not acknowledged these contracts as such and instead has proposed implementation of both these actions separately from all other Municipal Water Supply Projects with the same or similar status. Further, it appears that completion of the final steps of these contracting efforts, even though they have been ongoing for the past decade or more, are only proposed under Alternatives 3 and 5 of the Project. This treatment is erroneous: Reclamation has included both contracts in future condition Operational Criteria and Plan (OCAP) modeling for over a decade in both the 2004 and 2008 OCAP consultations, issued a DEIS for the EDCWA WSC, executed a five-year WAC for 8,500 AF of the full 17,000 AF, collaborated with EID to prepare NEPA documentation for the 17,000 AF long-term WAC, and publicly negotiated the WSC and WAC. The supplies provided by these contracts represent critical needs for the citizens of El Dorado County and are reasonably certain to occur. Therefore, for the reasons described herein, EID respectfully requests that Reclamation remove the separate characterization of these two contracts from the EIS and properly include these contracts (or clarify that they are already included) with the Municipal Water Supply Projects that would be considered to occur under the No Action Alternative and Second Basis of Comparison and, therefore, implemented under all alternatives.

EID reviewed Appendix 5A and notes that at page 5A-51, EID's 4,560-AF long-term WAC does not appear to be included in the modeling assumptions for the No Action Alternative and Second Basis of Comparison. EID and Reclamation executed this WAC (Contract No. 06-WC-20-3315) on September 9, 2010 and EID has regularly exercised the WAC since 2011. These demands should therefore be included in the modeling analysis. EID notes that in this location of the document, both the 17,000-AF WAC to EID and the 15,000-AF WSC to EDCWA are correctly included in the No Action Alternative and Second Basis of Comparison.

EID reviewed Appendix 5D and notes that Reclamation correctly characterized EID's 17,000-AF water supply provided by the El Dorado Hydroelectric Project (Project No. 184) as an existing supply (page 5D-15) under the No Action Alternative (NAA). However, this page erroneously



states that this supply is diverted at Forebay Reservoir. EID does divert some Project No. 184 water at Forebay Reservoir for consumptive uses pursuant to various pre-1914 water rights, but the water rights permit for the 17,000-AF supply requires that it be diverted from Folsom Reservoir under a WAC. The five-year, 8500-AF WAC (Contract No. 15-WC-20-4654) currently satisfies that requirement.

On page 5D-16, Reclamation incorrectly characterizes agricultural ditch supplies diverted from the North Fork Cosumnes River, Clear Creek, and Squaw Hollow Creek as contributors towards EID's municipal and industrial (M&I) water supplies. In fact, these are non-potable water supplies provided to EID's agricultural customers who have no other alternative sources. They cannot be utilized for M&I purposes and are not influenced by M&I supply conditions. The agricultural descriptor should conversely be removed from the EID water demand in Table 5D.12. The Middle Fork Cosumnes River supply described on that page serves potable water supplies to an EID satellite water systems that has no interconnection with EID's main system and cannot be served by M&I supplies from or influenced by Folsom Reservoir conditions. This supply should also be removed from this description of currently available supplies under the NAA.

Further, EID notes that Reclamation has incorrectly characterized the current available supplies of recycled water under the NAA. In its UWMP, EID noted that approximately 3,804 AF of recycled water is currently available annually. Supplies may climb to 7,730 AF annually by 2030 as additional wastewater is generated that can be treated to recycled water standards, but the availability of these supplies is affected by the amount of M&I water available, including the 17,000 AF WAC and EID's portion of the 15,000-AF WSC to EDCWA.

In summary, it appears that not every alternative in the DEIS as written clearly includes the long-proposed EID and EDCWA contracts. Unless this error is corrected, it is possible that Reclamation could select an alternative in the Final Environmental Impact Statement (FEIS) and Record of Decision (ROD) that omits these contracts, which could leave Reclamation without the NEPA coverage to enter into these contracts and thus leave EID unable to access critical supplies that we have been working toward in cooperation with Reclamation for over a decade.

Heeding Reclamation's recommendations and advice on many occasions over the past several years, EID and EDCWA have patiently waited for the remand process to take its course so the final steps of the contracting process could be completed. We are therefore alarmed to find ourselves responding to a DEIS that fails to clearly and properly characterize our contracts, and



that potentially excludes them from NEPA coverage, without any prior notice, coordination, or explanation from Reclamation. EID requests that Reclamation utilize the FEIS/ROD process to rectify this error and clarify and correctly characterize these two contracts so they are clearly included under each alternative.

#### Requirement for Temperature Control Device (TCD) on EID Facilities

Reclamation and EID have been working together for nearly twenty years to develop mechanisms to manage the cold water pool in Folsom Reservoir, while also providing the M&I water supplies that the Folsom facilities were intended to serve. As part of those efforts, EID secured federal funding through congressional authorizations and appropriations on three separate occasions to offset the costs to construct new, or modify EID's existing intake facilities to improve temperature control. Since securing those authorizations and funding, EID has conducted and shared with Reclamation numerous engineering and modeling evaluations and determined that the significant capital costs of modifying EID's facilities would provide only nominal cold water pool benefits. EID has therefore advocated allocating this funding and other matching sources toward a regional TCD solution that would more effectively contribute toward improving temperature management of the penstock outlet facilities, and has funded technical analyses to identify effective solutions. EID and Reclamation have negotiated contractual provisions acknowledging the option to pursue, and EID's contribution toward, the most cost-effective solution, which is reflected in WAC 15-WC-20-4654 currently being exercised. NMFS has accepted this agreement in its May 22, 2014 Endangered Species Act (ESA) concurrence letter to Reclamation for the full 17,000-AF WAC.

Even though Reclamation and NMFS have both agreed to this approach, the DEIS does not appear to acknowledge this important fact. Page 3-21 describes various structural improvements for temperature management, including a TCD on EID's intake facilities, but this section only describes the facilities in the context of actions that would otherwise occur by 2030 under the No Action Alternative. Page ES-5 indicates that many of the provisions of the 2009 NMFS Biological Opinion (BO) will require subsequent environmental documentation for future facilities to be constructed or modified, which EID understands includes either a TCD on EID's facility or a regional TCD solution. This page continues by indicating that specific actions are not known at this time and therefore the EIS assumes completion of the actions in a manner consistent with the ESA and does not address impacts during construction or start-up phases. Accordingly, it does not appear that the DEIS accurately reflects Reclamation's view that the potential requirement of installing a TCD at EID's intake that would be cost-ineffective and



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make negligible improvements to Folsom Reservoir temperature management, and should therefore be abandoned.

Although Page ES-11 indicates that Alternative 2 does not include implementation of the 2009 NMFS BO Reasonable and Prudent Alternative Action II.3 Structural Improvements for Temperature Management on the American River, of which the EID-facility TCD is a part, EID was unable to locate any other reference to this TCD in the document. Therefore, EID respectfully requests that in the Final EIS, Reclamation include within the proposed action and alternatives the option to proceed with the regional TCD solution concept as included within WAC 15-WC-20-4654 and authorized by NMFS.

EID respectfully requests that Reclamation address these comments to correctly characterize EID's existing and near-term water supplies and the potential for EID to contribute toward a regional TCD solution during preparation of the Final EIS, which EID understands is due by December 1, 2015 according to the U.S. District Court for the Eastern District of California. If there are any questions regarding these comments please contact Dan Corcoran, Environmental Manager, at (530) 642-4082 so that EID can facilitate Reclamation's revisions in the FEIS.

Sincerely,

A handwritten signature in blue ink that reads 'Jim Abercrombie'. The signature is fluid and cursive.

Jim Abercrombie  
General Manager

JA:DMC:pj

cc: Tom Cumpston, General Counsel  
Brian Poulsen, Senior Deputy General Counsel  
Brian Mueller, Director of Engineering  
Dan Corcoran, Environmental Manager  
Drew Lessard, Central California Area Office Manager, Bureau of Reclamation  
Ron Milligan, Central Valley Operations Office Manager, Bureau of Reclamation  
Ken Payne, Interim General Manager, El Dorado County Water Agency