

**ARTICLE 5 EXCHANGES FOR THE
CROSS VALLEY CENTRAL VALLEY PROJECT
CONTRACTORS WITH OTHERS**

Draft Finding of No Significant Impact

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U.S. Bureau of Reclamation
Mid-Pacific Region
South-Central California Area Office**

**UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
DRAFT
FINDING OF NO SIGNIFICANT IMPACT
ARTICLE 5 EXCHANGES FOR
EIGHT CROSS VALLEY CONTRACTORS
WITH OTHERS**

BACKGROUND

In accordance with Section 102 (2) (c) of the National Environmental Policy Act (NEPA) of 1969, as amended, the Mid-Pacific Regional Office of the U.S. Bureau of Reclamation (Reclamation) has determined an Environmental Impact Statement is not required for the proposed Article 5 exchanges between the Cross Valley Contractors and others. This Finding of No Significant Impacts (FONSI) is supported by Reclamation's Article 5 Exchanges between the Cross Valley Contractors and Other Water Districts Draft Environmental Assessment (DEA), dated January, 2000, herein incorporated by reference.

The purpose of the Proposed Action is to allow exchanges with Central Valley Project (CVP) water and other sources of water to accomplish initial deliveries of water supplies to the Cross Valley (CV) Contractors. The exchanges would improve timing and management of water supplies.

The CVP water is made available in the Delta at the Clifton Court Forebay. The Department of Water Resources (DWR) pumps and conveys this CVP water in the California Aqueduct of the State Water Project (SWP) facility. DWR pumps this water on a priority system and in some years only a portion of none of this water is pumped and conveyed. The operations of the CVP and SWP are described in detail in the Programmatic Environmental Impact Statement for the Implementation of the Central Valley Improvement Act; EA for the Long-term Contract Renewal for the Cross Valley Contractors; and the Operations Criteria and Plan Biological Assessment and Biological Opinion.

The CV Contractors cannot take direct deliveries of the entire CVP water supplies. Therefore, this water is exchanged for other sources of water that the CV Contractors have direct access. These other sources of water and potential exchange partners are listed in the incorporated EA.

The No-Action Alternative consists of exchanges with Arvin-Edison Water Storage District as in the past. It should be noted Reclamation has approved other Article 5 exchanges on short-term basis in recent years after completing the appropriate environmental review. The proposed exchanges and the analysis in the incorporated EA span 25 years. At the time of writing this FONSI, the long-term contracts have not been signed. This FONSI is relevant whether the long-term contracts or interim contracts are in place. The exchanges could result in an imbalance of water deliveries. For the purposes

of this FONSI, imbalance is defined as up to 128,300 acre-feet of water per year could be delivered to potential exchangers in the first leg of the exchange. No less than half of the amount actually delivered in the first leg would be provided to the CV Contractor(s). This is referred to as a 2:1 exchange. This imbalance of water is primarily due to financial agreements and incentives between the CV Contractors and potential exchange partners to enter into such arrangements in order for the CV Contractors to obtain their water supplies when it is needed.

FINDINGS

In accordance with NEPA and its implementing regulations and consistent with the analysis in incorporated EA, the South Central California Area Office of Reclamation has found that the Proposed Article 5 Exchanges between the Cross Valley Contractors and other is not a major federal action that would significantly affect the quality of the human environment. Consequently, an environmental impact statement is not required. This determination is supported by the following factors:

1. Surface Water Resources – Under the Proposed Action, no additional amounts of water would be diverted. SWP and CVP operations would continue to be coordinated in accordance with the Operations and Criteria Plan. Pumping, conveyance and deliveries would occur in existing facilities. The 128,300 af/y of CVP water is used for Agricultural and M&I purposes within the eight CV Contractor's service areas.

The Proposed Action would not alter any CVP or SWP entitlement or impede any obligations to deliver water to other CVP or SWP contractors, fish or wildlife purposes. Historically, the CV Contractor's CVP water is provided from the Delta and is typically exchanged for Friant CVP water with Arvin Edison Water Storage District. Article 5 exchanges are not precedent setting. Exchanges with others have occurred in the past.

The other sources of water are the exchange partner's water rights water or allocated contract water from the SWP, rivers, streams, creeks and banked groundwater. The rivers include the Kings, Kaweah, Tule, and Kern Rivers. A more complete list of the streams and creeks are listed in the incorporated EA. The demands for water typically exceed supplies. The proposed exchanges would not result in additional water supplies diverted from rivers, streams, reservoirs, creeks or groundwater. Diversions from rivers would occur with or without the Proposed Action. In wet years, less water may be diverted if demands are met or exceeded. The Proposed Action would have not result in long term effects on total water supply.

The proposed exchanges could result in permanent imbalances of water supplies. The exchange partner(s) would receive up to 128,300 af/y of CVP water. The CV Contractor(s) would receive no less than half of the amount of water provided to the exchange partner.

The proposed exchanges would allow the CVP water to be delivered to an exchange partner that can use it immediately or bank it for later use. No less than half of the

amount of other water would be delivered to the CV Contractor to use during the growing season. The proposed exchanges would allow for improved water management, deliveries and timing to maintain existing conditions for the CV Contractors. Therefore, the exchanges would not result in significant impacts to water quality and quantity in the CV Contractor's service areas.

The exchange partners would receive the benefit of increasing their water supplies by up to 64,150 af/y. This water could be used to grow higher value crops, groundwater recharge, banking for later use in dry years, subsequent transfers within the appropriate Place of Use including selling to the Environmental Water Account and/or municipal and industrial uses. The same amount of water would continue to be utilized within the lower San Joaquin Valley for beneficial uses. The exchanged water would not be used for conversion of lands without subsequent environmental review and approvals from the Contracting Officer. This water would not be applied to lands fallowed three or more years without appropriate biological surveys and consultations under the Endangered Species Act, if applicable. Subsequent transfers, recipients of the banked water, changes in the places or purpose of the use of the water would require environmental review, and compliance with the RRA, water rights permits and applicable federal, state and local laws prior to approval. Reclamation does not have jurisdiction over non-CVP supplies. It is recognized this CVP water could free up other water sources that Reclamation does not have authority. The cumulative impacts section below addresses the other sources of water that could be freed up.

Reclamation does not have approval authority over the conveyance of the CV Contractor's CVP water under Article 55 of the SWP contracts. It is possible the Article 55 of the SWP contracts, when combined with Article 5(a) exchanges of the CVP contracts could increase pumping opportunities of this water. The conveyance of CVP water under Article 55 could result in the CV Contractors receiving a higher rank on the hierarchy for pumping. Conveying water under Article 55 does not result in additional water conveyed. DWR pumps the maximum amount of water although the label on the water and recipients may differ. The proposed exchanges, conveyance, and approvals are subject to applicable laws including the "no injury" rule. The conveyance of 128,300 af/y of CVP water in the SWP system under Article 55 would not occur unless capacity exists. No unmitigated third party impacts would occur. No significant changes would occur to water quantities, diversions, conveyance practices or deliveries.

Under the Proposed Action, certain conditions could result in the CVP water losing its CVP characteristic and the non-CVP water could assume the characteristics of CVP water as it relates to the Reclamation Reform Act. However, CVP water is tracked from its origin to its final disposition (end use) and does not lose its characteristics under the water rights permits. The purpose and place of use of the CVP water would be used in compliance with the applicable water rights permits. This swapping of characteristics allows for maximum flexibility to apply water to irrigated lands. This water would not be applied to native lands. Lands that have been

fallowed for three or more years would undergo biological surveys and environmental review under NEPA and the Endangered Species Act prior to approval.

2. Groundwater Resources – The CV Contractors would continue managing available surface water and groundwater supplies, as in the past. During dry periods, more groundwater is likely to be pumped when surface water supplies are limited. Providing surface water supplies to the eight Cross Valley Contractors when it is needed would continue the recharging of water to the aquifer over the next 25 years and maintaining the local groundwater resources. However, two CV Contractors and two subcontractors are located in areas with soils or conditions that are unsuitable for groundwater recharge, banking, and extraction.

Due to the availability of groundwater storage facilities in Kern County, it is reasonable and foreseeable that water districts located in the Kern County Basin would become exchange partners with the CV Contractors. Therefore it is assumed groundwater quality and quantity would improve temporarily in Kern County. The groundwater is typically stored and extracted when surface water supplies are unavailable. The existing conveyance facilities allow for water to be conveyed to the exchangers or exchangees throughout the lower San Joaquin Valley. The Proposed Action and imbalanced exchanges would provide an increase of water to areas suitable for groundwater recharge providing an improvement of managing available water supplies and overall benefit to the region-wide overdraft conditions. However, this improvement is contingent upon factors independent of the Proposed Action. These factors include DWR having an opportunity to pump the CV Contractor's CVP water supplies, unpredictable hydrological conditions and availability of surface water supplies. The Proposed Action and imbalanced exchanges would not result in long-term or significant impacts to groundwater quality or quantity.

3. Water Quality - The proposed exchanges would not change surface or groundwater quality from existing conditions. The sources of water originating upstream in the Delta, behind Friant Dam, from rivers, and groundwater could be combined in the Cross Valley Canal. The Cross Valley Canal allows water to be conveyed via gravity from east to west and/or pumped west to east. This commingling of water would occur with or without the proposed exchanges. The water delivered under this Proposed Action is small compared to over 2 million af/y from the Kings and SWP, and is of high enough quality to not lead to significant changes in surface or groundwater quality.

4. Fisheries – Under the proposed exchanges, there would be no changes to CVP or SWP operations or contract amounts that would affect the timing of water moving through the reservoirs, canals, or stream flows to the extent it would affect fishery resources. Although the Article 5 exchanges and/or Article 55 conveyances could result in an increase of the opportunities for DWR to pump and convey this water, the operations and maintenance activities of the CVP and SWP have assumed the 128,300 af/y of water would be diverted from the Delta and delivered south of the Delta. The impacts to fisheries have undergone biological reviews under the OCAP

and the Long-Term Contract Renewals for the Cross Valley Contractors. The measures in the relevant Biological Opinions would continue to be implemented over the span of these exchange arrangements to 2030. Therefore, the Proposed Action would have no impacts on fishery resources beyond those already considered.

The watermasters on the Kings, Kaweah, Tule and Kern Rivers maintain minimum flow requirements to benefit downstream users. Although unlikely, the imbalanced exchanges could result in less water diverted from these rivers in wet years resulting in a slight changes and impacts to riparian habitat, fish and wildlife. This amount of water would be no more than 64,150 af/y of water. Reclamation is informally consulting on the Proposed Action. This amount is small when compared to over one million af/y average runoff on the Kings River, 430,000 af/y of average runoff for the Kaweah River, or average runoff for the Tule and Kern Rivers.

5. Biological Resources – The exchanges, relative to the No Action Alternative, do not increase the water service contract amounts, require additional facilities (dams, canals, etc.), change CVP or SWP operations or convert natural habitat to farmland, homes or businesses. CVP and SWP water would be pumped at historic amounts out of the Delta although the destination and label on the water would differ. The exchange partners could receive additional water supplies. The CVP water would be restricted from converting habitat or irrigating lands fallowed beyond three years without further consultation with the FWS. Changes in crop patterns could occur and less water could be diverted in wet years. Reclamation is informally consulting on the Proposed Action. Approvals would be consistent with the measures and conclusions in Biological Opinions, if issued.

6. Land Use Resources –The Proposed Action would not result in growth-inducing impacts within the service areas of the CV Contractors because there would be no changes to CVP or SWP operations or contract amounts beyond the 128,300 af/y of water. The potential exchanger partners would likely receive an increase of water supplies that could support land use changes. The availability of the 128,300 af/y of water for the exchange is subject to agricultural reductions of zero. The availability of this water is contingent upon DWR having an opportunity to pump the water. Therefore, this water does not provide a long-term or reliable supply of water to encourage long-term land use changes.

7. Threatened and Endangered Species - Consultation pursuant to the Endangered Species Act has been completed for the CVPIA PEIS, OCAP and Cross Valley Long-Term Contracts. Reclamation has supplemented the 2000 Draft EA and 2001 Final EA for the Long-Term Contracts and is in coordination with FWS and NOAA on the new information presented in the supplemental EA. The supplemental EA examines the impacts of water deliveries beyond 2025 to 2030. It was assumed the CV Contractors would sign their long-term contracts in 2006 and the analysis in the environmental review spanned to 2030. The long-term contracts have not been signed. The continued implementation of the various measures and requirements in the biological opinions until 2030 will ensure that there would be no significant

impacts on federally listed species in the CV Contractor's service areas. Reclamation is informally consulting on long-term contract renewals relevant to newly listed species and critical habitats under a separate consultation.

The potential exchange partners are not CVP Contractors and are not included in a Biological Opinion for the exchanges. Therefore, Reclamation is informally consulting with FWS and NOAA on the Article 5 exchanges. The approval for the exchanges would be subject to the measures and conditions included in any recommendations or biological opinions issued by FWS and NOAA.

8. Cultural Resources – The Proposed Action will not result in significant impacts to eligible or significant cultural resources since no ground disturbing activities would occur as a result of the exchanges. No additional infrastructure would be constructed and no land use changes or conversions into farmland or other uses are proposed. In addition, there would be no increase in deliveries, land use changes, or conversion of existing natural habitat into farmland or other uses.

9. Indian Trust Assets – The exchanges involves water that is already allocated and would not interfere with water deliveries, ceremonial activities, or conclusions of water rights reviews for Indian Tribes.

10. Environmental Justice – The exchanges would result in the same amount of water available in the lower San Joaquin Valley and would maintain existing agricultural lands. The CV Contractors would likely receive water when it is needed to maintain existing crop lands and related job opportunities for farm workers. The exchange partners could receive an increase of water supplies that could result in planting higher value crops requiring more intensive labor. The proposed exchanges could result in slight increases of job opportunities and income for farm laborers. No lands would be permanently removed from agricultural production.

11. Socio-economical Resources–Independent of the Proposed Action, present high unemployment rates would continue for the area. Agriculture would remain a large employer in the San Joaquin Valley. The delivery of this water to the CV Contractors, when it is needed, would not result in significant changes to social conditions or unemployment rates. Similar amounts of water will be applied to existing agricultural lands as in the past. DWR would pump and convey the maximum amount of water in the California Aqueduct as in the past although the destination and label on the water may differ. CVP power is used to convey the 128,300 af/y of CVP water when DWR has an opportunity. Currently, CVP power is not used to convey this water under Article 55 of the SWP contracts. Typically, the CV Contractor would enter into mutually agreeable terms including compensation for the payment of power usage.

12. Cumulative Affects – The exchanges with others is designed to provide the maximum flexibility to allow the CV Contractors to obtain their water supplies at times when it is needed. In order to obtain this water, the CV Contractors attract

exchange partners by entering into exchange agreements that benefit all parties. The exchange partners are likely to receive the benefit of keeping a portion of the water for beneficial uses including agricultural, M&I, groundwater recharge, groundwater banking, transfers, fish and wildlife enhancement projects.

The deliveries of CVP water could free up non-CVP water supplies that Reclamation does not have authority or control. The CVP water is subject to reductions down to zero for agricultural supplies if hydrological conditions warrant. Therefore, the CVP water is not reliable and does not lead to long-term availability of non-CVP supplies to meet long-term land use changes. Reclamation is committed to the protection of threatened and endangered species. Reclamation is under no obligation to approve exchange requests. By virtue of the exchanges with CVP water, the management and application (end use) of the non-CVP water is part of the Reclamation's approval process. The use of any source of water by the exchangee is subject to the criterion of this environmental review and consultations with the FWS and National Oceanic Atmospheric Administration (NOAA).

Subsequent environmental review including consultations under the Endangered Species Act would be required for application of any water regardless of its origin or sources, to untilled lands or changes from agricultural to urban land uses. The criterion and environmental measures would assure the proposed exchanges would not result in significant impacts to biological resources. However, it is recognized the exchangers and exchangees do not have authority over groundwater resources or privately owned wells. The water districts strive to provide affordable surface water supplies to discourage groundwater pumping. Pumping groundwater is expensive due to the overdraft conditions in the San Joaquin Valley. , pumping of groundwater is The amount of exchange water is small and would not contribute to long-term or adequate groundwater supplies.

Swapping sources of water for the purpose of irrigating lands pursuant to the Reclamation Reform Act are permitted. It should be noted that several limitations apply of how the water is used. Friant CVP water may not be used for fish and wildlife enhancement projects pursuant to the water rights permits. To protect the local groundwater supplies, water transfers out of the Kaweah Basin are not permitted. SWP and CVP water must stay within the appropriate Places of Use pursuant to the water rights permits. No portion of the water involved in these exchanges may be used to convert native habitat. Lands fallowed three or more years must have appropriate biological surveys conducted prior to applying any source of water involved in the exchanges to these lands. If applicable, consultations pursuant to the Endangered Species Act may be required prior to applying water to these lands. CVP water used for groundwater banking would maintain the label as CVP water when it is extracted and is subject to applicable laws and regulations including the water rights permits and Reclamation Reform Act. Transfers of SWP water are not permitted. Excess SWP water reverts back into DWR's control and accounted for in a Turn-Back Pool for redistribution. The water districts are responsible for managing available water supplies for their customers including groundwater. Most water

districts have adopted groundwater management plans which limit the transfer of groundwater out of the area. Water transfers of non-CVP supplies are subject to State laws. Generally, the “no-injury” rule applies for all transfers. Transfers are not permitted outside of the basin and typically, transfers of riparian water rights are not permitted. The water districts strive to provide surface water at the cheapest price to discourage landowners from pumping groundwater. The exchanges would result in benefits to groundwater resources. The water districts seek ways to reduce surface water costs including power for conveyance and deliveries. It is possible the exchanges would result in water conveyed over shorter distances to reduce costs of providing surface water. Less power used to convey water would provide a slight benefit to other power users.

The exchanges when added to the Article 55 provision in the SWP contracts could result in more frequency of DWR pumping and conveying the 128,300 af/y of water. Reclamation makes this water available in the Delta. Reclamation and DWR account for this water when determining annual allocations. The operations and maintenance of the CVP and SWP were addressed in the OCAP consultations with FWS and NOAA that included the 128,300 af/y of water. DWR would not pump CVP water if there would be unmitigated third party impacts, interruptions of service to other SWP users or to meet water quality and environmental requirements. The Proposed Action would not result in significant cumulative impacts to resources or the human environment.

Recommended:

Environmental Officer Date
South-Central California Area Office

Concur:

Chief, Resource Management Division Date
South-Central California Area Office

Concur:

Area Manager Date
South-Central California Area Office

Concur:

Regional Environmental Officer Date
Mid-Pacific Regional Office

Approved:

Regional Resources Manager Date
Mid-Pacific Regional Office