



2020 Seepage Management Actions

FINDING OF NO NEW SIGNIFICANT IMPACT

Recommended: _____
REBECCA VICTORINE Digitally signed by REBECCA VICTORINE
Date: 2020.10.28 11:01:11 -07'00'
Rebecca Victorine
Natural Resource Specialist

Recommended: _____
REGINA STORY Digitally signed by REGINA STORY
Date: 2020.10.29 16:07:02 -07'00'
Regina Story
Seepage Program Project Manager

Recommended: _____
ELIZABETH VASQUEZ Digitally signed by
ELIZABETH VASQUEZ
Date: 2020.11.02
15:49:09 -08'00'
Elizabeth Vasquez
Restoration Goal Supervisor

Approved: _____
DONALD PORTZ Digitally signed by DONALD
PORTZ
Date: 2020.11.03 07:37:45 -08'00'
Donald E. Portz, Ph.D.
Program Manager

CGB-EA-2021-003

This Page Intentionally Left Blank

BACKGROUND

In 1988, a coalition of environmental groups, led by the Natural Resources Defense Council (NRDC), filed a lawsuit challenging the renewal of long-term water service contracts between the United States and Central Valley Project Friant Division. After more than 18 years of litigation in *NRDC, et al., v. Kirk Rodgers, et al.*, a settlement was reached (Settlement). On September 31, 2006, the Settling Parties, including NRDC, Friant Water Users Authority, and the U.S. Departments of the Interior and Commerce, agreed on the terms and conditions of the Settlement, which was subsequently approved by the U.S. Eastern District Court of California on October 23, 2006. The San Joaquin River Restoration Settlement Act (Settlement Act), Title X of Public Law 111-11, authorizes and directs the Secretary of the Interior to implement the Settlement. The Bureau of Reclamation (Reclamation) is implementing the Settlement on behalf of the Secretary of the Interior. The Settlement establishes two primary goals:

- Restoration Goal – To restore and maintain fish populations in “good condition” in the main stem of the San Joaquin River below Friant Dam to the confluence of the Merced River, including naturally reproducing and self-sustaining populations of salmon and other fish.
- Water Management Goal – To reduce or avoid adverse water supply impacts on all of the Friant Contractors that may result from the Interim Flows and Restoration Flows provided for in the Settlement.

To achieve the Restoration Goal, the Settlement calls for releases of water from Friant Dam to the confluence of the Merced River (Restoration Flows), a combination of channel and structural modifications along the San Joaquin River below Friant Dam, and reintroduction of Central Valley Chinook salmon (*Oncorhynchus tshawytscha*). Restoration Flows are specific volumes of water to be released from Friant Dam in accordance with Exhibit B of the Settlement. In 2012, Reclamation and the State of California Department of Water Resources (DWR) completed the San Joaquin River Restoration Program (SJRRP) Programmatic Environmental Impact Statement/Report (PEIS/R) which analyzed and disclosed the potential effects of implementing actions to meet the requirements of the Settlement and Settlement Act. Some components were analyzed at a project level, and others at a program level, depending on the level of planning detail available at the time. Reclamation completed the Record of Decision (ROD), and DWR completed the Notice of Determination in 2012. An October 2013 Water Rights Order by the State Water Resources Control Board modified Reclamation’s water rights to implement Restoration Flows.

As described in Chapters 12 and 16 of the PEIS/R, the release of Restoration Flows has the potential to cause seepage of groundwater from the San Joaquin River channel to adjacent lands, potentially affecting groundwater levels on parcels along the river. The Seepage Management Plan (SMP) was included in the Physical Monitoring and Management Plan (Appendix D to the PEIS/R) to disclose an approach for Reclamation to identify and address potential seepage concerns related to the release of Restoration Flows. The SMP outlines a monitoring program to identify parcels potentially affected

by seepage related to release of Restoration Flows and a suite of actions that could be taken to address seepage concerns. Implementation of seepage monitoring and management actions as described in the SMP was included in the analysis of the potential effects of implementing the SJRRP Selected Alternative (Alternative C1), as described in Chapter 2 of the PEIS/R and the ROD, given the level of planning detail at the time. Environmental commitments (EC-7 and EC-8) as described in the PEIS/R and ROD, and Condition 7 of the Water Rights Order referenced above, require implementation of seepage monitoring and management actions as described in the SMP, including a commitment to not release Restoration Flows into a channel unless it has adequate capacity and the release would not cause seepage issues for the surrounding areas.

In 2015, the SJRRP completed the Revised Framework for Implementation (Framework) to establish a realistic schedule for implementation of the SJRRP actions in accordance with the Settlement and Settlement Act based on the best currently available information, and based on Five Year, Ten Year, Fifteen Year, and Beyond Fifteen Year visions. The Framework identified a goal of achieving the ability to release at least 1,300 cubic feet per second (cfs) by 2019 for the Five Year Vision. To be consistent with the approach for the 5-Year Vision, Reclamation is completing planning and landowner coordination efforts for seepage management actions that will allow for the release of Restoration Flows to 1,300 cfs as a first phase of seepage management actions. In 2017, Reclamation completed the Seepage Management Actions Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) which analyzed and disclosed the potential impacts, beyond those already analyzed and disclosed in the PEIS/R, of implementing specific seepage management actions that have been further defined based on landowner coordination efforts for potentially affected parcels with Restoration Flows up to 1,300 cfs, as further described in Section 2 of the EA. The purpose of implementing the proposed seepage management actions is to account for these potential seepage impacts as authorized by the Settlement Act, and enable the release of Restoration Flows in a manner acceptable to landowners and consistent with the Settlement, PEIS/R and Framework Five Year Vision.

Since completion of the EA, further groundwater monitoring has indicated additional properties that could potentially be impacted at flows below 1,300 cfs (Attachment). Without actions to address seepage on these parcels, Restoration Flows would continue to be released from Friant Dam in accordance with Settlement Exhibit B but would be constrained to current seepage capacity. Flows downstream of Sack Dam would be limited to amounts that would not cause any material adverse impacts to surrounding agricultural lands, which is currently, and would continue to be, approximately 300 cfs without further action.

Therefore, Reclamation proposes to implement seepage easements or fee title land acquisitions on up to 3,798 additional acres of land along Reaches 3 and 4A of the San Joaquin River (Proposed Action). These parcels are located in Fresno, Madera, and Merced counties. Most landowners with parcels that could be affected by groundwater seepage in Stage 1 have indicated interest in Reclamation pursuing an easement as their preferred action to compensate for the potential effects of seepage on their parcels. Therefore, the Proposed Action consists of Reclamation negotiating with landowners to

implement either an easement allowing for the raising of groundwater levels potentially associated with passage of Restoration Flows, or a willing seller fee-title acquisition. Based on initial coordination with landowners, it is anticipated that a combination of easements and land acquisitions, with mostly easements, would be implemented on the parcels indicated in the Attachment.

A seepage easement would be a permanent easement (i.e., recorded on the deed) on the landowner's property that would allow Reclamation to increase groundwater levels on all or a portion of the property. By having an easement in place that allows an increase in groundwater levels on the property, Reclamation would be able to increase Restoration Flows in the San Joaquin River adjacent to the property. A seepage easement would include the area of land predicted to be impacted by seepage caused by full Restoration Flows in accordance with Settlement Exhibit B. The easement area would be determined by the geographic extent of damage or yield reduction predicted to the crop from the anticipated groundwater rise, as well as negotiation with the landowner. Under the seepage easement agreement, the landowner would continue to own the property.

With the fee-title land acquisition, Reclamation would have the ability to increase groundwater levels on the property, thus being able to increase Restoration Flows in the San Joaquin River adjacent to the property. An acquisition could include just the area of land predicted to be impacted from Restoration Flows in accordance with Settlement Exhibit B, or, if the remaining parcel not impacted by seepage is so small as to be infeasible to practically farm, the acquisition could include the entire parcel as identified by Assessor Parcel Number. After acquiring the land, Reclamation could lease the land back to a grower for agricultural production or retain the property for other uses.

No ground-disturbing activities would occur as part of the proposed action. Negotiations and realty agreements take time to implement; therefore, it is assumed the proposed action would be implemented over the next several years.

The following commitments are consistent with those commitments described in the ROD and will be implemented under the proposed action to avoid and minimize potential adverse environmental impacts to the extent feasible.

Reclamation will review the land use of all properties with seepage easements or acquired in fee title by Reclamation every 5 years. If land use has changed to a non-agricultural use, Reclamation will either: (1) acquire agricultural conservation easements at a 1:1 ratio (i.e., one acre on which agricultural conservation easements are acquired to one acre of Important Farmland removed from agricultural use) to be held by land trusts or public agencies who will be responsible for enforcement of the deed restrictions maintaining these lands in agricultural use, or (2) provide funds to a land trust or government program that conserves agricultural land sufficient to obtain easements on comparable land at a 1:1 ratio.

For parcels acquired in fee title by Reclamation, Reclamation will strive to maintain existing agricultural uses if potential lessees are willing to accept the risk of increased groundwater levels and would like to continue agricultural operations on the parcel and it

is compatible with other SJRRP actions.

Reclamation will implement the actions described in the SMP, including continued operation of a seepage hotline and other measures described in SMP Appendix J, Operations.

FINDINGS

Reclamation considered the potential short-term and long-term effects of the Proposed Action, both beneficial and adverse. Following are the reasons why the impacts of the Proposed Action are not significant, with respect to the affected environment and degree of effects of the action (40 CFR 1501.3(b)).

1. The Proposed Action will not significantly affect public health or safety (40 CFR 1501.3(b)(2)(iii)).
2. The Proposed Action will not violate federal, state, tribal, or local law protecting the environment (40 CFR 1501.3(b)(2)(iv)).
3. The Proposed Action will not affect any Indian Trust Assets (512 DM 2, Policy Memorandum – July 2, 1993).
4. Implementing the Proposed Action will not disproportionately affect minorities or low-income populations and communities (EO 12898 – February 11, 1994).
5. The Proposed Action will not limit access to, and ceremonial use of, Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (EO 13007 – May 24, 1996 and 512 DM 3 – June 5, 1998).

The proposed action will not result in any additional or more substantial impacts from what was analyzed and disclosed in the 2012 PEIS/R and the 2017 EA and FONSI. In accordance with the National Environmental Policy Act of 1969, as amended, Reclamation has found that the proposed action of acquiring easements and/or fee title purchase of the additional lands potentially affected by higher groundwater levels from Restoration Flows of 1,300 cfs in the Eastside Bypass, and Reaches 3 and 4A, is not a major Federal action that would significantly affect the human environment. Therefore, an environmental impact statement is not required.