

FINDING OF NO SIGNIFICANT IMPACT

**San Joaquin River Restoration Program
Eastside Bypass Improvements Project
Merced National Wildlife Refuge Well Replacement**

United States Department of the Interior
Bureau of Reclamation
Mid-Pacific Region
Sacramento, California

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FONSI Number: 18-03-SJRRP

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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, *NRDC, et al., v. Kirk Rodgers, et al.*, a settlement was reached (Settlement). On September 13, 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 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.

The San Joaquin River Restoration Program (SJRRP) is being implemented in accordance with the Settlement by the U.S. Bureau of Reclamation (Reclamation), U.S. Fish and Wildlife Service (Service), National Marine Fisheries Service (NMFS), the California Department of Water Resources (DWR) and the California Department of Fish and Wildlife (DFW).

Consistent with the Restoration Goal, the SJRRP is proposing to implement the Eastside Bypass Improvements Project (EBIP) to facilitate fish migration and increased Restoration Flow capacity in the Eastside Bypass by 2020. In December 2017, Reclamation, as the lead agency in accordance with the National Environmental Policy Act (NEPA), and DWR, as the lead agency in accordance with the California Environmental Quality Act, prepared and released for public review the EBIP Draft Environmental Assessment/Initial Study (EA/IS). The EBIP Final EA/IS consists of the December 2017 Draft EA/IS, including Appendices A and B; public comments received (Appendix C), responses to public comments and minor text changes to the EA/IS (Appendix D), Endangered Species Act (ESA) compliance documentation (Appendix E) and National Historic Preservation Act (NHPA) Section 106 compliance documentation (Appendix F).

The EBIP includes several actions being planned and designed for implementation by DWR and Reclamation, including removal of two existing weirs the Merced National Wildlife Refuge (Refuge) has historically operated for irrigation of managed wetlands. To replace the water supply historically provided by these two weirs, Reclamation is proposing to replace an existing non-operational well on the Refuge with a new well.

The proposed action, including environmental commitments that will be implemented to avoid and minimize potential impacts to the extent feasible, is further described in the attached EA/IS. While the attached EA/IS analyzes the potential impacts to the human environment of implementing the removal of the weirs and the well replacement, along with the other elements of the EBIP being planned for implementation by DWR, this finding of no significant impact (FONSI) is being prepared for the proposed action of providing a replacement well only. Reclamation has completed all related environmental compliance documentation for the proposed well replacement, as further described below. Reclamation will prepare a subsequent FONSI for the proposed action of removing the weirs once all related environmental compliance documentation has been completed for that proposed action. Reclamation will continue to coordinate with the Refuge on potential actions to offset the additional expense of operating the replacement well (such offsets may include the purchase and installation of a roof-mounted photovoltaic array). Subsequent environmental compliance documentation will be prepared as necessary for any such future actions.

FINDINGS

The attached EA/IS was prepared to evaluate the potential environmental impacts associated with the proposed action and the no action alternative. In accordance with NEPA, as amended, Reclamation has found that the proposed action of providing the Refuge with a replacement well, as further described in the attached EA/IS, is not a major Federal action that would significantly affect the human environment. Therefore, an environmental impact statement is not required.

This FONSI is based on the following, as further described in the attached EA/IS:

- The proposed action will have no effect on the following resources: Indian sacred sites, Indian Trust Assets, agricultural resources, land use, hazards, population and housing, public services and utilities, and environmental justice.
- The proposed action constitutes an undertaking as outlined in Section 301(7) of the NHPA, initiating Section 106 of the NHPA and its implementing regulations at 36 CFR §800. Reclamation initiated consultation with the State Historic Preservation Officer (SHPO), notifying the SHPO of Reclamation's finding of no adverse effect, pursuant to 36 CFR §800.4(d)(1). The SHPO responded indicating no objection to this finding, concluding the consultation process for this undertaking (Appendix F).
- As described in the EA/IS, construction activities under the proposed action would be short term and have a small area of disturbance. In addition, the proposed action includes implementing environmental commitments that would avoid and minimize impacts to special status species, including those protected by the Migratory Bird Treaty Act. The Service has provided concurrence with Reclamation's determination that the proposed action, as described, may affect,

but is not likely to adversely affect, vernal pool crustaceans, Central California Distinct Population Segment California tiger salamander, blunt-nosed leopard lizard, giant garter snake, San Joaquin kit fox, and Fresno kangaroo rat (Appendix E). In addition, the proposed action is not likely to adversely affect the primary constituent elements of critical habitat for the vernal pool fairy shrimp, vernal pool tadpole shrimp, conservancy fair shrimp, Hoover's spurge, or Colusa grass. The proposed action will be consistent with the goals and policies of the Draft San Luis and Merced National Wildlife Refuge Comprehensive Conservation Plan. The proposed action will have no effect on fish species. Therefore, impacts to biological resources will be less than significant.

- Long-term and cumulative impacts from the release of Restoration Flows into the San Joaquin River and the Eastside Bypass were previously analyzed and disclosed in the San Joaquin River Restoration Program EIS/EIR (PEIS/R). The EBIP EA/IS tiers from that document and focuses on implementation of several fish passage and levee projects that were more broadly analyzed in the PEIS/R. The change in hydrology and wetland function from releasing Restoration Flows is not analyzed as an impact of the proposed action in the EBIP EA/IS, as the change is assumed to be part of the no action alternative condition, which includes implementation of the selected alternative as described in the 2012 SJRRP PEIS/R Record of Decision, including release of up to 4,500 cubic feet per second of Restoration Flows in the Restoration Area. Reclamation recognizes that this no action alternative condition has affected the Refuge and will continue to work with the Refuge on avoiding and/or minimizing potential changes to Refuge operations and wetlands. The proposed action will not result in any fill of Waters of the U.S. Therefore, impacts to hydrology and wetlands will be less than significant.
- Construction associated with the proposed action will not be visible from the Refuge nature trails, auto tour route, or the associated wildlife observation platforms (on the east side of the Eastside Bypass) due to the distance, height of the existing intervening levee, and intervening vegetation (which includes scattered trees). Once the proposed action is completed, only the wellhead will be visible at the surface and due to its extremely small size it will not detract from the existing visual character or quality. This impact will be less than significant.
- The replacement well will operate in a fashion similar to other refuge wells by providing close to 400 to 600 acre-feet per year with an anticipated average operating time of up to 90 days over the 7-month operating period to meet the irrigation needs of the refuge. The replacement well will have a capacity of 1,500 gallons per minute and be screened at about 150 to 200 feet below ground surface, not to extend below the bottom of the Corcoran clay layer, making withdrawals from the shallow aquifer. Given that the neighboring landowner already takes steps to actively reduce groundwater levels, a small decline in

groundwater levels in the shallow aquifer introduced by the new replacement well will not likely adversely affect conditions in the shallow aquifer. Therefore, impacts to groundwater levels and the potential for subsidence will be less than significant.

- The replacement well will be located in the Eastside Bypass and therefore may affect flood flows. However, the replacement well will be designed to result in negligible effects on flood elevations, specifically with respect to the Central Valley Flood Protection Board 0.1-foot water level increase criterion. Therefore, impacts to flood management will be less than significant.
- The proposed action will have no long-term, permanent impacts on private or public waterfowl hunting, or the wildlife viewing opportunities afforded by the three nature trails or auto tour route on the Refuge. Thus, the proposed action will have a less than significant impact on recreation opportunities.
- Construction emissions under the proposed action will be temporary and less than the *de minimus* air pollutant thresholds. Implementation of the environmental commitments as described in the attached EA/IS will further avoid and minimize potential impacts to air quality. Therefore, impacts to air quality will be less than significant.
- Cumulative impacts of the proposed action and other past, present and reasonably foreseeable future actions, including implementation of other SJRRP projects contributing to achieving the Restoration Goal will have a beneficial effect on hydrology and biologic resources. The proposed action will not considerably contribute to cumulative adverse impacts on any resources. As described in the attached EA/IS, the proposed action is a component of a series of actions along Reach 4B of the San Joaquin River and Eastside Bypass. However, the remaining EBIP actions are not anticipated to be implemented until at least 2019 or later; therefore, the potential minor and temporary construction-related impacts associated with the proposed action, as described in the attached EA/IS will be spaced out from these other actions.