



Topic: **Authority Board Agenda Item 6-2**

**2020 February 26**

Subject: **Consider Re-starting Efforts on the Environmental Impact Report for the Sites Reservoir Project**

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**Requested Action:**

Consider approval to re-start efforts on the Environmental Impact Report (EIR) for the Sites Reservoir Project, consider the most appropriate approach for completing the EIR pursuant to the California Environmental Quality Act (CEQA), and to continue working with the Bureau of Reclamation to finalize their EIS pursuant to the National Environmental Policy Act (NEPA); presumably as a joint document.

**Detailed Description/Background:**

In August 2017, the Authority and the Bureau of Reclamation (Reclamation) jointly issued a Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the Project pursuant to their respective lead agency obligations under CEQA and NEPA<sup>1</sup>. The public comment period on the Draft EIR/EIS was subsequently extended and then closed on January 15, 2018. A total of 141 comments letters were received on the Draft EIR/EIS along with comments received at two public hearings held during the public review period. From approximately March 2019 thru the end of September 2019, the Project team were developing responses to the comments received on the Draft EIR/EIS. On October 1, 2019, this work was put on hold in order to focus on the Value Planning Effort.

As the Value Planning Effort is anticipated to be completed in April 2020, the Project team can re-start its efforts on the joint EIR/EIS. Direction is needed from the Committee and the Authority Board regarding how best to re-start efforts on the EIR and identification of the most appropriate approach for completing the environmental documentation; which will include continuing to work with Reclamation to determine how they want to proceed with finalizing their EIS. The Reservoir Committee should consider the most appropriate approach to completing the document, including possible continuation of the joint EIR/EIS approach, potentially recirculation of a revised Draft EIR to allow for additional public comment and review. Recirculation could be used to address the anticipated changes to the Project from the Value Planning effort and potential revisions to the Project's criteria for diverting water from the Sacramento River. Options for moving forward with the EIR are identified and summarized in Table 1, below. Similarly, Reclamation will need to make a separate decision on how

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<sup>1</sup> Release of the draft EIR/EIS for public comment coincided with release of Reclamation's draft Feasibility Report and the Authority's submission of its Proposition 1 (WSIP) application to the California Water Commission.

to proceed with the EIS under NEPA, including possible continuation of the joint EIR/EIS approach followed previously for this Project.

On January 29, 2020 the Ad Hoc Environmental and Permitting Work Group met to discuss the approach for restarting work on the EIR. The Work Group discussed the current status of the Project and the Value Planning effort, the options for completing the environmental review, and the considerations that bear upon whether the environmental document should be recirculated in whole or in part. Based on the anticipated Project changes in terms of footprint, design and operations, the Work Group approved a recommendation that the Reservoir Committee consider recirculation of a revised Draft EIR, including the option of full recirculation. Once the revised draft environmental document is completed, it would be considered for public release at future Reservoir Committee and Authority Board meetings. Depending on the approach of Reclamation, staff may proceed with joint recirculated EIR/EIS.

**Table 1 - Range of options to finalize the EIR as a joint document with Reclamation**

Option	Applicability	Approach	Additional Work Needed <sup>1</sup>
Continue Preparation of a Final EIR/EIS	<p>This approach may be the most appropriate under the following circumstances:</p> <ol style="list-style-type: none"> <li>1. Proposed Project does not change the Primary Study Area (i.e. footprint)</li> <li>2. Changes in project design or operations do not cause new or substantially more severe significant impacts as compared to Draft EIR/EIS analysis</li> <li>3. Responses to Comments (RTC) demonstrate adequacy of Draft EIR/EIS impact analyses and findings</li> </ol>	<p>Continue with Final EIR:</p> <ul style="list-style-type: none"> <li>• Executive Summary (new)</li> <li>• Vol 1 – EIR/EIS Chapters with reader's guides</li> <li>• Vol 2 – Appendices, including revised modeling</li> <li>• Vol 3 – RTC, including Master Responses</li> </ul>	<ul style="list-style-type: none"> <li>• Complete modeling needed to: <ul style="list-style-type: none"> <li>○ Define project design and operations</li> <li>○ Demonstrate there are no new or substantially different impacts as compared to Draft EIR/EIS</li> <li>○ Demonstrate adequacy of Draft EIR/EIS impact analyses and findings</li> </ul> </li> <li>• Complete RTCs using master and individual responses</li> <li>• Coordinate with Reclamation to complete NEPA process</li> <li>• Supplemental EIR required if there are substantial changes after certification of Final EIR</li> </ul>

Option	Applicability	Approach	Additional Work Needed <sup>1</sup>
Partial Recirculation of EIR <sup>2</sup> /EIS <sup>3</sup>	<ul style="list-style-type: none"> <li>• New or substantially more severe impacts on some environmental resources, but not others, resulting from:               <ul style="list-style-type: none"> <li>○ Footprint/design changes</li> <li>○ Operational changes</li> <li>○ Changes in Reclamation's involvement</li> <li>○ New information (including issues raised in comments on Draft EIR/EIS)</li> </ul> </li> </ul>	Assumes recirculation of affected sections of Draft EIR/EIS: <ul style="list-style-type: none"> <li>• Executive Summary (new)</li> <li>• Updated project description, including refined operational scenarios</li> <li>• Chapters and appendices (e.g., water resources) updated based on Project changes and new information</li> <li>• RTCs to address comments on non-recirculated sections of Draft EIR/EIS</li> </ul>	<ul style="list-style-type: none"> <li>• Continue finalizing RTCs for non-recirculated sections of Draft EIR/EIS</li> <li>• Prepare introduction with rationale for partial recirculation</li> <li>• Revise recirculated sections of Draft EIR/EIS (including appendices, if necessary)</li> <li>• Notify commenters of intent to recirculate and provide instructions on how to comment on recirculated sections</li> <li>• Recirculate revised Draft EIR/EIS sections; then prepare Final EIR/EIS and RTCs for comments on recirculated sections</li> </ul>
Complete Recirculation of EIR <sup>2</sup> /EIS <sup>2</sup>	<ul style="list-style-type: none"> <li>• Same as for partial recirculation, but may be preferable for strategic reasons; or</li> <li>• New or substantially more severe impacts for most or all resources</li> </ul>	Assumes recirculation of entire Draft EIR/EIS: <ul style="list-style-type: none"> <li>• Updated project description, including more refined operations</li> <li>• Executive Summary and all chapters updated based on project changes and new information</li> <li>• Includes updated modeling, draft 404(b)(1) analysis in appendices</li> <li>• RTCs developed thus far used to revise analyses, but not published as RTCs</li> </ul>	<ul style="list-style-type: none"> <li>• Prepare introduction with rationale for recirculation</li> <li>• Revise all EIR/EIS sections for recirculation, including new/revised appendices</li> <li>• Address prior comments through EIR/EIS revisions</li> <li>• Notify commenters of intent to recirculate and of need to provide new comments</li> <li>• Recirculate entire revised Draft EIR/EIS; then prepare Final EIR/EIS and RTCs for comments on recirculated document</li> </ul>

EIR = Environmental Impact Report

EIS = Environmental Impact Statement

RTC = Response to comments

1. All options assume the identification of a Preferred Project, including (a) defining the project footprint and basic design, and (b) completing modeling to define concept-level project operations.

2. EIR: Pursuant to CEQA Guidelines Section 15088.5(a), "A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification. As used in this section, the term "information" can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a

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<p>feasible project alternative) that the project's proponents have declined to implement. "Significant new information" requiring recirculation include, for example, a disclosure showing that:</p> <p>(1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.</p> <p>(2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.</p> <p>(3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it.</p> <p>(4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded."</p> <p>EIS: Requirements are similar</p>			

**Prior Action:**

July 20, 2017: The Reservoir Committee approved a recommendation to forward the Draft EIR/EIS to the Authority Board for its consideration to formally receive and adopt the document for inclusion in the Authority's Water Storage Investment Project application.

July 31, 2017: The Authority approved the release of the Draft EIR for public and agency review, in connection with the Authority's application to the California Water Commission by August 14, 2017. The document was published as joint Draft EIR/EIS by the Authority under CEQA and Reclamation under NEPA.

December 19, 2016: The Authority approves release of a revised Notice of Preparation to transfer CEQA lead agency status from the Department of Water Resources to the Sites Project Authority. Public scoping meetings were conducted on February 14 and 15, 2017.

**Fiscal Impact/Funding Source:**

Costs to begin this effort were included in the Phase 1B Work Plan which was approved by the Sites Project Authority at its January 22, 2010 Board meeting. Amendments to ICF Jones and Stokes, Inc.'s and CH2M Hill Engineers, Inc.'s contracts to begin this effort were included in Agenda Item 4 in this Reservoir Committee meeting.

Costs to complete this effort that will be incurred after August 2020 will be considered in the Amendment 2 Task Orders.

**Staff Contact:**

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**Attachments:**

None.