APPENDICES

A. NOTICE OF PREPARATION

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NOTICE OF PREPARATION OF ENVIRONMENTAL IMPACT REPORT FOR THE MONTEREY AMENDMENT TO THE STATE WATER PROJECT CONTRACTS (INCLUDING KERN WATER BANK TRANSFER) AND OTHER CONTRACT AMENDMENTS AND ASSOCIATED ACTIONS AS PART OF A PROPOSED SETTLEMENT AGREEMENT IN PLANNING AND CONSERVATION LEAGUE V. DEPARTMENT OF WATER RESOURCES

INTRODUCTION

To satisfy California Environmental Quality Act (CEQA) requirements (California Public Resources Code Section 21000 et seq), the California Department of Water Resources (DWR) will prepare an Environmental Impact Report (EIR) for the Monterey Amendment to the State Water Project (SWP) contracts (including Kern Water Bank transfer) and other contract amendments and associated actions as part of a proposed settlement agreement in Planning and Conservation League v. Department of Water Resources (83 Cal. App. 4th 892 (2000) (PCL v. DWR) (proposed project or Monterey Plus). During the preparation of the EIR, DWR will solicit comments from interested stakeholders through a series of scoping meetings.

Several terms with precise definitions are used in this Notice of Preparation. The Monterey Agreement is a set of principles agreed to by DWR and the SWP contractors. The Monterey Amendment is the amendment made to the contracts for state water as a result of the Monterey principles. The settlement agreement is the agreement proposed between the DWR, PCL, Citizens Planning Association of Santa Barbara, and Plumas County Flood Control and Water Conservation District (Plumas) that if executed would result in settlement of the litigation in connection with the 1995 Monterey Agreement EIR.

The EIR will evaluate the potential environmental impacts of changes to SWP operations that are a consequence of the Monterey Amendment. The EIR will also evaluate the additional actions set forth in an agreement to settle litigation regarding the 1995 Monterey Amendment EIR. See the project description below for more details.

In general, the EIR will serve as a Project EIR (CEQA Guidelines Section 15161). That is, the EIR will address the SWP contract amendments and the settlement agreement actions at a project-level of detail where no subsequent actions are expected and/or where sufficient information on subsequent actions are known or can be generated.

In some cases, subsequent actions that stem from the contract amendments or settlement actions may require additional environmental review prior to implementation. In these cases, the EIR will serve as a program EIR (CEQA Guidelines Section 15168) and will provide information and analysis that could provide a foundation for subsequent, site-specific environmental review.

BACKGROUND INFORMATION

In 1994, DWR and certain representatives of the SWP contractors agreed to a set of principles, known as the Monterey Agreement, to settle long-term water allocation disputes, and to establish a new water management strategy for the SWP. The disputes focused on the phrasing of Article 18 of the SWP contracts. Article 18 addresses the allocation of shortages in water supply, and particularly under what circumstances the initial reductions to agricultural use should be imposed prior to reducing allocations to urban contractors. Article 18(a) deals with temporary shortages that occur due to droughts and other temporary causes. Article 18(b) deals with the possibility of specified types of permanent shortages of supply of project water. The Monterey Agreement Statement of Principles, executed on December 1, 1994, resolved the allocation controversy by proposing contract revisions to eliminate initial agricultural use cutbacks and specifying that all project water was to be allocated in proportion to contract amounts (as shown in Table A).[1] The principles provided that the individual SWP contracts would be amended to conform to the principles and CEQA compliance would begin to evaluate the potential impacts of implementing the Monterey Agreement.

Pursuant to CEQA, in May 1995, a Draft EIR was prepared by the Central Coast Water Authority (CCWA) acting as Lead Agency. The Final EIR for the Monterey Agreement was completed in October 1995. CCWA certified the Final EIR in November 1995 and issued findings and mitigation measures. Subsequently, DWR relied on the EIR as a responsible agency and drafted a contract amendment. Twenty seven of the 29 SWP contractors (all except Plumas County and Empire West Side Irrigation District) executed the Monterey Amendment. DWR has been operating the SWP consistent with the provision of the Monterey Amendment since 1996. Certain actions provided for under the Monterey Amendment have undergone separate project-level environmental review where necessary (including several permanent water transfers and development of the Kern Water Bank).

On December 27, 1995, PCL filed a lawsuit against DWR and CCWA challenging the adequacy of the 1995 Monterey Agreement EIR. The Citizens Planning Association of Santa Barbara and Plumas County Flood Control and Water Conservation District joined the lawsuit.

Ultimately, on September 15, 2000, the Third District Court of Appeal ruled that DWR had the statutory duty to serve as Lead Agency in assessing environmental consequences of the Monterey Agreement. The appellate court further held that the 1995 Monterey Agreement EIR failed to adequately analyze the impacts of deleting Article 18(b) (the provision for reallocation of water among contractors in the event of a defined permanent water shortage) and directed that a new EIR be prepared. The court held the lack of an environmental analysis of eliminating Article 18(b) deprived public agencies and the public of information essential to understanding the environmental consequences of the provision's elimination, including the potential effect on land use planning decisions.

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1 Table A is contained in all SWP documents. It lists the amounts of SWP water made available each year. Under certain conditions, the contractor may receive a lesser amount.

WRITTEN COMMENTS

Within 30 days after receiving the Notice of Preparation, each Responsible Agency shall provide the Lead Agency with specific detail about the scope, significant environmental issues, reasonable alternatives, and mitigation measures related to the Responsible Agency's area of statutory responsibility that will need to be explored in the Draft EIR. In accordance with CEQA Guidelines Section 15082(b)(1)(B), responsible and trustee agencies should indicate their respective level of responsibility for the project in their response.

Comments from individual respondents, including names and home addresses of respondents, will be made available for public review. Individual respondents may request that their home address be withheld from public disclosure, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety.

Written comments on the scope of the EIR should be sent to Ms. Delores Brown, Chief, Mitigation and Restoration Branch, Department of Water Resources, 3251 S Street, Sacramento, CA 95816 or by e-mail at delores@water.ca.gov. Additional information on the Monterey Amendment EIR process can be found on the DWR web page http://www.water.ca.gov/.

Original Signed by Barbara McDonnell on January 24, 2003

Barbara McDonnell
Chief, Division of Environmental Services
Department of Water Resources

Date _____

Financial Restructuring

- Use SWP funds to establish an SWP operating reserve
- Establish a program of water rate management which, when SWP cash flow permits, provides for a credit in charges to urban contractors, as well as agricultural contractor trust funds for rate management

Proposed Settlement Agreement

- Establish a watershed forum for Plumas to pursue watershed restoration and provide for amending Plumas' SWP contract regarding shortages
- Impose additional restrictions on use of the Kern Water Bank lands
- Amend and clarify SWP contracts to substitute in certain instances "Table A Amount" for "entitlement"
- Implement new procedures for disclosure of SWP delivery capabilities
- Issue guidelines on permanent Table A transfers
- Establish procedures for public participation in certain contract amendment negotiations
- Provide certain funding to the plaintiffs for multiple purposes, including watershed restoration

PROJECT AREA AND FACILITIES

The location of the proposed project includes the SWP facilities and service areas. The proposed project area is the SWP service area (including the Kern Water Bank lands) and the SWP contractors' service areas (see Figure 1). In addition, depending on SWP contractor actions under the proposed project, the area of influence could extend beyond the service areas.

The SWP is the largest state-built water project in the United States. Major catchments and facilities include dams, reservoirs, pumping plants, power plants, and canals and tunnels including the facilities listed below (see Figure 1):

- Lake Oroville and three other reservoirs in the Feather River watershed;
- Silverwood Lake
- San Luis Reservoir;
- Terminal Reservoirs (Lake Del Valle in the north and Castaic Lake and Lake Perris in the south);
- Harvey O. Banks Delta Pumping Plant;
- California Aqueduct;
- North Bay Aqueduct;
- Coastal Branch; and
- South Bay Aqueduct.

ENVIRONMENTAL BASELINE

CEQA Guidelines Section 15125 states that an EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the Notice of Preparation is published, or if no Notice of Preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a Lead Agency determines whether an impact is significant. Normally, the environmental baseline is the same as existing conditions. However, since completion of the 1995 Monterey Agreement EIR, DWR has operated under the terms of the Monterey Amendment provisions, and certain subsequent actions provided for under the Monterey Amendment have already been implemented. Therefore, in order to ensure that the whole of the action (proposed project) is adequately evaluated, it may be necessary to refine the existing conditions. Further analysis will determine what the appropriate environmental baseline will be for the project.

ALTERNATIVES

CEQA Guidelines Section 15126.6 states that an EIR shall describe a range of reasonable alternatives to the project, which would feasibly attain most of the basic objective of the project but would avoid or substantially lessen any of the significant adverse environmental effects of the project, and evaluate the comparative merits of the alternatives. An EIR is not required to consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision-making and public participation.

DWR has not identified the reasonable range of alternatives to implementation of the proposed project. Feasible alternatives that meet most of the basic project objectives and avoid or substantially lessen any of the significant effects of the project will be explored according to CEQA requirements in response to Notice of Preparation comments, scoping meetings and through subsequent environmental analysis.

However, DWR has identified a No Project Alternative, required under CEQA Guidelines Section 15126.6(e), with the following scenarios that will be evaluated in the EIR:

- No implementation of the Monterey Amendment with a permanent water shortage and implementation of Article 18(b); and
- No implementation of the Monterey Amendment without a permanent water shortage and no implementation of Article 18(b).

PROBABLE ENVIRONMENTAL EFFECTS

The EIR will analyze resources that could be affected by the project, including but not limited to aesthetics, agricultural resources, air quality, biological resources, cultural resources, cumulative impacts, geology and soils, growth-inducement, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public services, recreation, transportation and traffic, utilities and service systems.

Subsequent comments on the Notice of Preparation, comments from the scoping meetings and subsequent analyses will identify additional environmental impacts, if any.

SCOPING MEETINGS

Scoping meetings will be held in February in the following locations:

February 3, 2003
10:00 AM – Noon
Resources Building Auditorium
First Floor, 1416 Ninth Street
Sacramento, CA

February 4, 2003
7:00 PM – 9:00 PM
Supervisors' Board Room
4080 Lemon Street
14th Floor
Riverside, CA

February 5, 2003
7:00 PM – 9:00 PM
Board of Supervisors Hearing Room
Hall of Administration
800 South Victoria Avenue
Ventura, CA

February 6, 2003
7:00 PM – 9:00 PM
Supervisors' Board Room
1115 Truxtun Avenue
5th floor
Bakersfield, CA

February 13, 2003
2:30 PM – 5:00 PM
Supervisors Board Room
Third floor Court House
520 Main Street
Quincy, California

Please note that the formal presentation and public comment will begin approximately 30 minutes from the start of each meeting. Anyone interested in more information concerning the EIR process, or anyone who has information concerning the study or suggestions as to significant issues, should contact Delores Brown as provided below.

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Within 30 days after receiving the Notice of Preparation, each Responsible Agency shall provide the Lead Agency with specific detail about the scope, significant environmental issues, reasonable alternatives, and mitigation measures related to the Responsible Agency's area of statutory responsibility that will need to be explored in the Draft EIR. In accordance with CEQA Guidelines Section 15082(b)(1)(B), responsible and trustee agencies should indicate their respective level of responsibility for the project in their response.

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Original Signed by Barbara McDonnell on January 24, 2003

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Barbara McDonnell
Chief, Division of Environmental Services
Department of Water Resources

Date _____

EIP ASSOCIATES

Source:
State of California Department of Water Resources "Management of the CA State Water Project" and the CDWR website

Project Number: 10682

Figure 1
State Water Project and Water Supply Contractors' Service Areas