

RESOLUTION NO. 2007-23

A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE YUBA COUNTY WATER AGENCY
CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE
LOWER YUBA RIVER ACCORD,
MAKING CERTAIN CEQA FINDINGS,
ADOPTING STATEMENT OF OVERRIDING CONSIDERATIONS,
APPROVING MITIGATION MONITORING AND REPORTING PROGRAM
AND APPROVING LOWER YUBA RIVER ACCORD

BE IT RESOLVED by the Board of Directors of the Yuba County Water Agency as follows:

1. Background Recitals. The Board of Directors finds and determines as follows:

a. The *Draft Environmental Impact Report/Environmental Impact Statement for the Proposed Lower Yuba River Accord* (the "Draft EIR/EIS") was prepared by the Yuba County Water Agency (the "Agency") and the United States Department of the Interior, Bureau of Reclamation ("Reclamation") for the proposed Lower Yuba River Accord (the "Project") pursuant to the California Environmental Quality Act and CEQA Guidelines (collectively "CEQA") and the National Environmental Policy Act and associated regulations (collectively "NEPA").

b. The Agency and Reclamation completed the Draft EIR/EIS, and on June 25, 2007, distributed copies of the Draft EIR/EIS to those responsible and trustee public agencies that have jurisdiction by law with respect to the Project, as well as to other interested persons and agencies, and sought the comments of such persons and agencies.

c. There was a 60-day public review period for comments on the Draft EIR/EIS and comments were solicited from state agencies through the State Clearinghouse (SCH #2005062111).

d. Following the close of the public comment period, the Agency and Reclamation evaluated and prepared written responses to public comments and made appropriate revisions to the Draft EIR/EIS.

e. The Agency and Reclamation then prepared the *Final Environmental Impact Report/Environmental Impact Statement for the Proposed Lower Yuba River Accord* ("Final EIR/EIS"), which consists of the following: the Draft EIR/EIS; a description of the public outreach process; changes in the project description since publication of the Draft EIR/EIS; comments on the Draft EIR/EIS and the Agency's and Reclamations' responses to these comments; revisions to the Draft EIR/EIS; and a CEQA Mitigation Monitoring and Reporting Program.

f. The Final EIR/EIS identified certain potentially significant effects on the environment that, absent the adoption of mitigation measures, would be caused by the Project.

g. Under CEQA, the Board of Directors is required to adopt all feasible mitigation measures or feasible project alternatives that can substantially lessen or avoid any potentially significant Project-related environmental effects.

h. As demonstrated by the CEQA Findings of Fact (attached to this resolution as Exhibit A and incorporated into this resolution as part of it), most of the Project's potentially significant

environmental effects can be either substantially lessened or avoided through the adoption of feasible mitigation measures, although some effects will remain significant and unavoidable despite the adoption of all feasible mitigation measures.

i. Because the adoption of all feasible mitigation measures cannot substantially lessen or avoid all significant effects on the environment associated with the Project, the Board of Directors must consider the feasibility of alternatives that will be less environmentally damaging with respect to the unavoidable significant effects associated with the Project.

j. The Board of Directors has determined, for reasons set forth in Exhibit A and in the Final EIR/EIS, that the proposed alternatives to the Project are not environmentally preferable, are infeasible (e.g., they fail to fully meet the Project objectives), or are neither environmentally preferable nor feasible.

k. The Board of Directors has determined that, for reasons set forth in Exhibit A and the Final EIR/EIS, the preferred Project described in the Final EIR/EIS (the Yuba Accord Alternative) is feasible and meets the Project objectives.

l. The Board of Directors is required by CEQA to adopt a mitigation, monitoring and reporting/environmental commitments plan to ensure that the mitigation measures adopted by the District are actually implemented.

m. A Mitigation, Monitoring and Reporting/Environmental Commitments Plan for the Project has been prepared and is in Chapter 6 of the Final EIR/EIS and is incorporated into this resolution as part of it.

n. Because the adopted mitigation measures have not fully mitigated or avoided all identified significant environmental effects associated with the Project, CEQA requires the Board of Directors to adopt a Statement of Overriding Considerations, which is included in Exhibit A.

o. The Board of Directors determines it appropriate to certify the Final EIR/EIS, to adopt the Findings of Fact and Statement of Overriding Considerations, to approve the Mitigation, Monitoring and Reporting/Environmental Commitments Plan, and to approve the Project.

2. Findings Related to CEQA Proceedings. The Board of Directors further finds and determines as follows:

a. The Notice of Preparation for the Draft EIR/EIS was duly prepared, noticed and properly circulated in accordance CEQA.

b. The Draft EIR/EIS was duly prepared, properly circulated and completed in accordance with CEQA.

c. After providing adequate public notice, the Draft EIR/EIS was duly circulated in accordance with CEQA and public comments were properly solicited by the District in compliance with CEQA.

d. All comments received during the public review period have been duly considered and incorporated into the Final EIR/EIS, and when necessary, responded to in accordance with CEQA.

e. The District provided written proposed responses to all public agency comments received on the Draft EIR/EIS at least ten days before certification of the Final EIR/EIS.

f. The Final EIR/EIS for the Project has been properly completed in compliance with CEQA and has identified all significant environmental effects of the Project, and there are no known potential environmental effects that are not addressed in the Final EIR/EIS. By this resolution, the Project has been modified to incorporate mitigation measures to eliminate significant impacts or to reduce such impacts to a level of insignificance wherever feasible.

3. Certification of the Final EIR/EIS, Adoption of Findings, and Adoption of the Mitigation Monitoring and Reporting/Environmental Commitments Plan.

a. The Board of Directors finds, determines and certifies that: (i) the Final EIR/EIS has been completed in compliance with CEQA, (ii) the Final EIR/EIS has been presented to the Board of Directors and the Board has reviewed and considered the information and analysis contained in the Final EIR/EIS before approving the Project, and (iii) the Final EIR/EIS reflects the independent judgment and analysis of the Board of Directors.

b. The Board of Directors hereby adopts and approves the Final EIR/EIS as the environmental impact report under CEQA for the Project. This approval will be valid under CEQA whether or not Reclamation ever approves the Final EIR/EIS as a final environmental impact statement under NEPA, and whether or not Reclamation ever approves the Project or issues a record of decision for the Project.

c. The Board of Directors hereby adopts and approves the CEQA Findings of Fact and Statement of Overriding Considerations attached as Exhibit A. By adopting the Findings of Fact, the Board of Directors has satisfied its obligations concerning CEQA findings, in that Exhibit A: (i) identifies all feasible mitigation measures that can substantially lessen or avoid the significant environmental effects associated with the Project, (ii) explains why certain proposed mitigation measures are rejected as infeasible, (iii) explains why the Project alternatives cannot feasibly and adequately satisfy the objectives of the Project, (iv) explains why the Yuba Accord Alternative is considered feasible and is being adopted as the Project, and (v) sets forth the Agency's Statement of Overriding Considerations concerning the Project's unavoidable significant environmental effects.

d. The Board of Directors hereby: (i) approves the mitigation measures described in the Mitigation, Monitoring and Reporting/Environmental Commitments Plan in Chapter 6 of the Final EIR/EIS; (ii) adopts and approves the Mitigation, Monitoring and Reporting/Environmental Commitments Plan in accordance with Public Resources Code section 21081.6(a), and (iii) authorizes and directs the Agency's General Manager, his designees, and other appropriate Agency staff to implement and enforce the mitigation measures in the implementation, operations and management of the Project.

e. The Board of Directors authorizes and directs the Agency's General Manager to prepare and sign a CEQA Notice of Determination, and to file this notice within five working days following the date of adoption of this resolution with the Yuba County Clerk and the State Clearinghouse, and directs that copies of the Final EIR/EIS be retained at the Agency's office for public review.

4. Project Approval. The Board of Directors hereby approves the Yuba Accord Alternative described in the Final EIR/EIS and authorizes and directs the Agency's General Manager to take the necessary steps to implement the Project.

PASSED AND ADOPTED by the Board of Directors of the Yuba County Water Agency on the 23rd day of October, 2007, by the following vote on roll call:

AYES:	Directors Griego, Logue, Muck, Nicoletti, Schrader and Stocker
NOES:	None
ABSTAIN:	None
ABSENT:	Director Belza



Donald Schrader, Chairman

ATTEST:



Jeanene Upton, Assistant Secretary

EXHIBIT A

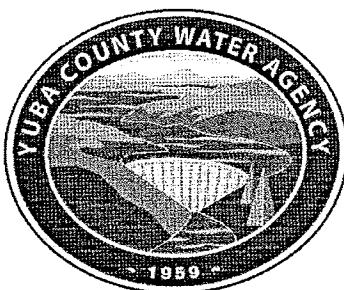
**California Environmental Quality Act
Findings of Fact
and
Statement of Overriding Considerations**

of the

Yuba County Water Agency

for the

Lower Yuba River Accord



Yuba County Water Agency

Prepared pursuant to: Section 21081 et seq. of the California Public Resources Code and
Sections 15091 and 15093 of the CEQA Guidelines

October 2007

**California Environmental Quality Act
Findings of Fact and Statement of Overriding Considerations
of the Yuba County Water Agency
for the Lower Yuba River Accord**

1.0 INTRODUCTION

The California Environmental Quality Act (Public Resources Code Section 21000, *et seq.*) (CEQA) and the CEQA Guidelines (California Code of Regulations, Title 14, Section 15000, *et seq.*) state that if it has been determined that a project may or will have significant impacts on the environment, then an Environmental Impact Report must be prepared. The Yuba County Water Agency (YCWA) and the United States Department of the Interior (Interior) Bureau of Reclamation (Reclamation) prepared a joint Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for the Lower Yuba River Accord (Yuba Accord or Project). The EIR/EIS (State Clearinghouse No. 2005062111) consists of the June 2007 Draft EIR/EIS and the October 2007 Final EIR/EIS. YCWA is the lead agency pursuant to CEQA.

Before project approval, an EIR must be certified pursuant to Section 15090 of the CEQA Guidelines. Before approving a project for which an EIR has been certified, and for which the EIR identifies one or more significant environmental impacts, the approving agency must make one or more of the following findings, accompanied by a brief explanation of the rationale, pursuant to Section 15091 of the CEQA Guidelines, for each identified significant impact:

- Changes or alterations have been required in, or incorporated into, such project which avoid or substantially lessen the significant environmental effect as identified in the final environmental impact report.
- Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency, or can and should be adopted by such other agency.
- Specific economic, legal, social, technological, or other consideration, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternative identified in the environmental impact report.

Section 15092 of the CEQA Guidelines states that after consideration of an EIR, and in conjunction with the Section 15091 findings identified above, the lead agency may decide whether or how to approve or carry out the project. The lead agency may approve a project with unavoidable adverse environmental effects only when specific economic, legal, social, technological, or other considerations outweigh those effects. Section 15093 requires the lead agency to document and substantiate any such determination in a "statement of overriding considerations."

This document sets forth YCWA's findings, and includes a summary of the project description, a discussion of the cumulative and growth-inducing impacts, a summary of the Mitigation Monitoring and Reporting Program/Environmental Commitments Plan (MMRP/ECP) in the Final EIR/EIS, and a Statement of Overriding Considerations. These findings and the accompanying Statement of Overriding Considerations have been prepared in accordance with CEQA and the CEQA Guidelines. The purpose of these findings and this statement is to satisfy the requirements of Sections 15090, 15091, 15092, 15093, and 15097 of the CEQA Guidelines.

2.0 PROJECT SUMMARY

2.1 PROJECT LOCATION

The project study area includes those regions that might benefit from or potentially be affected by implementation of the Yuba Accord, which would involve changes in Yuba River Development Project (Yuba Project) operations and water management of the lower Yuba River. As described in the Draft EIR/EIS, the project study area includes: (1) Yuba Project facilities and the lower Yuba River; (2) the YCWA Member Units and their service areas; (3) local groundwater basins; (4) CVP and SWP storage reservoirs and rivers downstream of these reservoirs; and (5) the Delta. Additionally, San Luis Reservoir and areas served by downstream CVP/SWP contractors (the Export Service Area) are considered. Therefore, the geographic areas influenced by implementation of the Project are described and evaluated in the following four primary regions:

- Yuba Region
- CVP/SWP Upstream of the Delta Region
- Delta Region
- Export Service Area

YCWA would release water from New Bullards Bar Reservoir and through Englebright Reservoir into the lower Yuba River to: (1) implement the flow schedules under the Yuba Accord Alternative; and (2) provide Yuba Accord transfer water to Reclamation and DWR. Reclamation and DWR would receive and convey Yuba Accord transfer water from YCWA in the Sacramento River and the Delta, and potentially may store a portion of this water in San Luis Reservoir before delivering it to the federal and state water contractors in the Export Service Area (Figure 1).

2.2 PROJECT DESCRIPTION

The Yuba Accord is the result of over two years of work and discussions by Yuba River stakeholders to resolve the controversies regarding RD-1644. The goal of the negotiations and discussions was to find a solution to the challenges of competing interests. The Yuba Accord Alternative includes three separate but interrelated proposed agreements that would protect and enhance fisheries resources in the lower Yuba River, increase local supply reliability, and provide Reclamation and DWR with increased operational flexibility for protection of Delta fisheries resources through the EWA Program, and provision of supplemental dry-year water supplies to federal and state water contractors. Drafts of these proposed agreements are in Appendix B of the Draft EIR/EIS and Appendix M of the Final EIR/EIS and are discussed in detail in Chapter 3 of the Draft EIR/EIS.¹ These proposed agreements are:

¹ The Lower Yuba River Fisheries Agreement and the Yuba Accord Water Purchase Agreement are in the process of being finalized and have been updated since publication of the Draft EIR/EIS. Revisions that have been made to each of these two agreements as of October 15, 2007 are included in the drafts that are in Appendix M of the Final EIR/EIS.

Proposed Lower Yuba River Accord

SCH# 2005062111

Project Location:



- ❑ The Lower Yuba River Fisheries Agreement (Fisheries Agreement);
- ❑ Yuba Accord Conjunctive Use Agreement (Conjunctive Use Agreements); and
- ❑ Yuba Accord Water Purchase Agreement (Water Purchase Agreement).

Signatory parties to the proposed Fisheries Agreement include YCWA, California Department of Fish and Game (CDFG), the South Yuba River Citizens League (SYRCL), Friends of the River (FOR), Trout Unlimited (TU), and The Bay Institute (TBI). The National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS) are precluded from signing the Fisheries Agreement by federal law; however, they have signed the Statement of Support for Fisheries Agreement (see Appendix B of the Draft EIR/EIS) and have provided critical input to development of the Fisheries Agreement.

The Fisheries Agreement is the cornerstone of the Yuba Accord Alternative. The Fisheries Agreement contains proposed new instream flow requirements for the lower Yuba River that are intended to increase protection of the river's fisheries resources. In addition to the best available science and data, the interests of the participating state, federal, and local fisheries biologists, fisheries advocates, and policy representatives were considered during development of the Yuba Accord Alternative. A fundamental precept of the Yuba Accord Alternative is the provision of instream flows during specified periods of the year that generally are higher than the corresponding interim instream-flow requirements of D-1644.

YCWA also proposes to implement the Conjunctive Use Agreements, which would establish a conjunctive use program that would provide for comprehensive management of the surface water and groundwater supplies within Yuba County, in coordination with the local irrigation districts and mutual water companies that YCWA serves in the county.

Under the Water Purchase Agreement, Reclamation and the California Department of Water Resources (DWR) would purchase water from YCWA to improve water supply reliability for the Central Valley Project (CVP) and the State Water Project (SWP) and to contribute to the security of a long-term Environmental Water Account (EWA) Program or a program equivalent to the EWA. Substantial portions of the water obtained by the CVP and SWP under the Water Purchase Agreement may be used for fish and wildlife purposes, which may include meeting refuge water supply commitments and helping to achieve Delta outflow requirements.

The analysis of the Yuba Accord Alternative is based on the concept that the Component 1 water would go to the EWA, and that the Components 2, 3 and 4 water transfer amounts would be shared equally between the CVP and SWP, and would be divided by each project among the respective project's contractors, generally in proportion to contract water allocation provisions. It is expected that contractual arrangement between the CVP and SWP (the Tier 2 Agreement) would recognize the potential that one project could receive more than 50 percent of this transfer water, up to 100 percent of the total amount, in a particular year, depending on the relative allocations of each project's supplies to its contractors in that year, and on the willingness of the other project to relinquish some or all of its share of Yuba Accord water in that year.

During the course of the preparation of the Draft EIR/EIS for the Project, some circumstances related to water supplies and water delivery in Northern California have changed, and some of those changes may have implications for the Project. Potential changed circumstances that may impact the Project are generally a result of the ongoing litigation between the Natural Resources Defense Council et al. versus Kempthorne et al. (*NRDC vs. Kempthorne*) and Pacific Coast Federation of Fisherman's Associations (PCFFA), et al. v. Gutierrez, et al. (*PCFFA vs.*

Gutierrez) regarding the USFWS 2005 Biological Opinion (BO) and the National Marine Fisheries Service's (NMFS) 2004 BO, respectively, on the CVP and SWP Operations Criteria and Plan (OCAP). Due to this ongoing litigation, Reclamation has decided to delay completion of the Endangered Species Act (ESA) consultation for the Project, and thus will not immediately participate in the Project. At this juncture, it is not clear precisely when Reclamation will be able to complete the ESA consultation and then issue a Record of Decision for the Project; however Reclamation continues to work diligently toward that goal. As a result, the first phase of implementation of the Yuba Accord Alternative will include water purchases by DWR only, while the second phase will include both DWR and Reclamation.

3.0 ADMINISTRATIVE RECORD OF PROCEEDINGS

In accordance with Public Resources Code Section 21167.6, Subdivision (e), the administrative record of proceedings for YCWA's decision on the Project includes the following documents:

- The July 20, 2005 Notice of Preparation/Notice of Intent;
- The March 2006 Final Public Scoping Summary Report for the Lower Yuba River Accord;
- The June 2007 Proposed Lower Yuba River Accord Draft EIR/EIS, including all appendices, technical reports, and documents cited in the Draft EIR/EIS;
- The October 2007 Proposed Lower Yuba River Accord Final EIR/EIS, including all appendices, technical reports, and documents cited in the Final EIR/EIS;
- All notices issued by YCWA and Reclamation to comply with CEQA, NEPA, or any other law governing the processing and approval of the Project;
- All comments submitted by public agencies and members of the public during the public comment period on the Draft EIR/EIS;
- All comments and correspondence submitted to YCWA with respect to the Project, in addition to timely comments on the Draft EIR/EIS;
- Responses to comments on the Draft EIR/EIS;
- The MMRP/ECP for the Project;
- All findings adopted by YCWA for the Project;
- All final reports, studies, memoranda, maps, staff reports, or other planning documents relating to the Project prepared by YCWA or consultants to YCWA with respect to YCWA's compliance with CEQA and with respect to YCWA's action on the Project;
- All recordings of public meetings, public workshops and public hearings held by YCWA in connection with the Project; and
- All other materials required for the record of proceedings by Public Resources Code Section 21167.6, Subdivision (e).

The official custodian of the documents comprising the administrative record for YCWA's decision is YCWA's General Manager. The location of the administrative record for the Lower Yuba River Accord is YCWA's offices, which are located at 1220 F Street, Marysville, California, 95901.

4.0 MITIGATION MONITORING AND REPORTING PROGRAM/ENVIRONMENTAL COMMITMENTS PLAN

Section 15091(d) of the CEQA Guidelines requires that public agencies adopt a reporting and monitoring program whenever a project or program is approved that includes mitigation measures identified in an environmental document to avoid or substantially lessen the potentially significant impacts of the Project. All feasible mitigation measures that avoid or substantially lessen the potential significant impacts of the Project and that are adopted by YCWA will become binding on the Project at the time of approval.

A MMRP/ECP was prepared for the Project, in accordance with CEQA Guidelines Sections 15091(d) and 15097. The environmental commitments, and the impact avoidance and mitigation measures that will be implemented by YCWA, Reclamation, DWR, the Member Units and others to ensure that no significant impacts result from the Project are described in Chapter 6 of the Final EIR/EIS and are summarized in Table 1 of these findings.

5.0 FINDINGS ON POTENTIALLY SIGNIFICANT ENVIRONMENTAL IMPACTS REQUIRED BY CEQA

Public Resources Code Section 21002 provides that *“public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such project.”* The same statute states that the procedures required by CEQA *“are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects.”* Section 21002 further states that *“in the event specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects thereof.”* (See also CEQA Guidelines, Sections 15901 and 15092.)

The mandate and principles in Public Resources Code Section 21002 are implemented, in part, through the requirement that agencies must adopt findings before approving projects for which EIRs are required. For each significant environmental impact identified in an EIR for a proposed project, the approving agency must issue a written finding reaching one or more of three permissible conclusions. The first of such findings is that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR. In their application to the project, the adopted mitigation measures are among the “changes or alterations” referenced in this finding. Other “changes and alterations” are discussed herein. The second permissible finding is that such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes either have been adopted by such other agency or can and should be adopted by such other agency. The third potential finding is that specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or project alternatives identified in the final EIR. (CEQA Guidelines, Section 15091.)

Table 1. Summary of Mitigation Measures and Environmental Commitments Incorporated into the Project (Yuba Accord Alternative)

Mitigation Measures/ Environmental Commitments	Implementing Agency	Timing
GROUNDWATER RESOURCES		
Mitigation Measure 6-1. A Groundwater Monitoring and Reporting Program will be implemented to minimize and/or avoid potential impacts to local groundwater users in the Yuba Region	YCWA, DWR and the Member Units	Before, during and after each groundwater transfer
Mitigation Measure 6-2. A Third-Party Impacts Action Plan will be implemented to minimize and/or avoid potential impacts to local groundwater users in the Yuba Region	YCWA and the Member Units	Before, during and after each groundwater transfer
WATER QUALITY		
Mitigation Measure 9-1. Carriage water will be used to maintain salinity and chloride concentrations in the Delta	Reclamation ^a and DWR	During transfers
Mitigation Measure 9-2. YCWA operational flexibility will be utilized to ensure that refilling of the reservoir will not adversely affect water quality in the Delta	YCWA	Continuous, year-round
FISHERIES AND AQUATIC RESOURCES		
Environmental Commitment 10-1. The River Management Team (RMT) will oversee various environmental actions for the lower Yuba River, including operation of water temperature devices, the planning of fisheries monitoring and studies, and habitat enhancement measures	YCWA, CDFG, NMFS, USFWS, Reclamation, DWR and SYRCL (collectively the RMT)	Continuous and year-round over the duration of the project
<input type="checkbox"/> RMT Monitoring Measure 1: VAKI RiverWatcher Fish Monitoring	YCWA/RMT	Continuous, year-round
<input type="checkbox"/> RMT Monitoring Measure 2: Lower Yuba River Chinook Salmon Escapement Survey	YCWA/RMT	Annually from October through December
<input type="checkbox"/> RMT Monitoring Measure 3: Develop in-river salmonid production indices by monitoring the downstream movement of juvenile salmonids in the lower Yuba River using rotary screw traps	YCWA/RMT	Continuous, year-round
AIR QUALITY		
Mitigation Measure 15-1. Provide certification documentation to Reclamation and DWR indicating that groundwater pumping sources will not increase emissions, to ensure that no net impacts to air quality will occur.	YCWA and approved by Reclamation ^a and DWR	Annually, if groundwater substitution operations occur
^a Reclamation's participation to become effective as part of the second phase of the Yuba Accord Alternative (see Chapter 3 of the Final EIR/EIS).		

As defined in Section 21061.1 of the CEQA Guidelines, "feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, legal, and technological factors. The concept of "feasibility" also encompasses the question of whether a particular alternative of mitigation measure promotes the underlying goals and objectives of a project. (*Sequoiah Hills Homeowner Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715.) Moreover, "'feasibility' under CEQA encompasses 'desirability' to the extent that desirability is based on a reasonable balancing of

the relevant economic, environmental, social, legal, and technological factors.” (*City of Del Mar v. City of San Diego* (1982) 133 Cal.App.3d 410, 417.)

For the purposes of these findings, the term “avoid” refers to the effectiveness of one or more mitigation measures to reduce an otherwise significant impact to a less-than-significant level. In contrast, the term “substantially lessen” refers to the effectiveness of such measure or measures to substantially reduce the severity of a significant impact, but not to reduce that impact to a less-than-significant level.

CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environmental impacts that would otherwise occur. In the process of adopting mitigation, YCWA has made determinations regarding whether the mitigation measures proposed in the EIR/EIS are “feasible.”

With respect to a project for which some significant environmental impacts are not avoided or substantially lessened, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a statement of overriding considerations setting forth the specific reasons that the agency found the project’s benefits outweigh its unavoidable adverse environmental impacts (see Public Resources Code, Section 21002; CEQA Guidelines Section 15093). In the process of considering the EIR/EIS for certification, YCWA has recognized that impact avoidance is not possible in all instances. To the extent that significant adverse environmental impacts will not be reduced to less-than-significant levels with adopted mitigation measures, YCWA has found that specific economic, social, and other considerations support approval of the Project. Those findings are reflected herein this section, and in Section 8 of these findings.

5.1 ENVIRONMENTAL IMPACTS

The Yuba Accord EIR/EIS analyzed the potential for significant environmental impacts to occur on the following resources: (1) Surface Water Supply and Management; (2) Groundwater Resources; (3) Power Production and Energy Consumption; (4) Flood Control; (5) Surface Water Quality; (6) Fisheries and Aquatic Resources; (7) Terrestrial Resources; (8) Recreation; (9) Visual Resources; (9) Cultural Resources; (10) Air Quality; (11) Land Use; (12) Socioeconomics; (13) Growth Inducement; (14) Environmental Justice; and (15) Indian Trust Assets. Based on the analyses, it was determined that several types of resources would not be impacted by the Project. Additionally, some potential impacts can be fully avoided or substantially lessened through the adoption of feasible mitigation measures or environmental commitments. Other potential impacts cannot be avoided or substantially lessened by the adoption of feasible mitigation measures or environmental commitments, and thus may be significant and unavoidable.

5.1.1 FINDINGS REGARDING ENVIRONMENTAL IMPACTS DETERMINED TO BE LESS THAN SIGNIFICANT

A less-than-significant impact would cause no substantial change in the environment (no mitigation is required). Table 1-1 in Chapter 1 of the Final EIR/EIS lists the potential impacts of the Project that were determined to be less than significant.

5.1.2 FINDINGS REGARDING ENVIRONMENTAL IMPACTS REDUCED TO LESS-THAN-SIGNIFICANT LEVELS OR AVOIDED BY MITIGATION AND MONITORING

Table 1-2 in Chapter 1 of the Final EIR/EIS lists the potentially significant impacts that will be reduced to less-than-significant levels with the incorporation of mitigation measures. Specifically, these resource areas are: groundwater resources, surface water quality, fisheries and aquatic resources and air quality. YCWA will incorporate procedures into the Project that will avoid or reduce potential impacts on these resources as a result of Project implementation (see Chapter 6 of the Final EIR/EIS). With implementation of mitigation measures, the potentially significant impacts listed in Table 1-2 in Chapter 1 of the Final EIR/EIS will be reduced to less-than-significant levels.

The lead agencies have adopted these measures and incorporated them in the Project in compliance with applicable federal, state, and local policies and regulations that apply to the Project activities. These measures will ensure that the Yuba Accord Alternative will minimize or avoid potentially significant environmental impacts, to the extent feasible. These measures include YCWA monitoring commitments that were developed during the preliminary planning and design phases of the Yuba Accord, and mitigation and monitoring commitments identified by Reclamation and DWR in the EIS/EIR for the existing EWA Program (Reclamation *et al.* 2004).

5.1.2.1 GROUNDWATER RESOURCES

The EIR/EIS identifies potentially significant impacts to groundwater resources, as stated below. These impacts will be reduced to less-than-significant levels through the incorporation of the mitigation measures that are summarized below and described in the MMRP/ECP in Chapter 6 of the Final EIR/EIS.

Impact 1: A change in groundwater pumping that could impact local groundwater users in the Yuba Region

Finding 1: A Groundwater Monitoring and Reporting Program will be implemented to minimize or avoid potential impacts to local groundwater users in the Yuba Region (see Mitigation Measure 6-1 in Chapter 6 of the Final EIR/EIS).

Action/Commitment: For past groundwater substitution water transfers, YCWA and DWR developed a Groundwater Transfer Monitoring and Reporting Program specific to Yuba County. YCWA has also developed a Groundwater Management Plan (GMP), which was adopted in March 2005 pursuant to Water Code Sections 10750 *et seq.* Since 2005, YCWA has constructed eight additional groundwater monitoring wells for this program (See DWR, Memorandum Report, "Monitoring Well Construction Technical Assistance," April 2007). Information gathered from the activities specified in the GMP, along with the activities described in Exhibit 3 to the Water Purchase Agreement, will be used to assess the effects of groundwater pumping on groundwater resources in the Yuba Region. YCWA will continue to work with DWR and the Member Units to identify and resolve any new groundwater monitoring issues.

Monitoring Activities: Groundwater monitoring activities in the Yuba Region will involve:

- The water levels in selected production wells geographically dispersed throughout each Member Unit participating in the groundwater substitution program will be measured by the Member Unit prior to the initial pumping for each year during which a groundwater substitution transfer will take place. Selection of these wells will be by mutual agreement

by DWR and Yuba, in consultation with the Member Unit. Upon termination of pumping for the year, the water levels will be measured by the Member Units, and such measurements will continue on a monthly basis until water levels have recovered to the pre-pumping levels, or have stabilized. In no case will water-level measurements be required following spring high water levels in the year following the year of the groundwater substitution pumping. The Member Units will provide the water-level readings to YCWA within 15 days of each reading.

- ❑ To supplement the GMP-specified monitoring program, water levels in each monitoring well in the YCWA network will be measured at least every two months by YCWA in each year during which a groundwater substitution transfer is to take place, commencing no later than April. Upon termination of pumping, the monitoring well water levels will be measured, and such measurements will continue on a monthly basis until water levels have recovered to the pre-pumping levels, or have stabilized. In no case will water-level measurements be required following spring high water levels in the year following the year of the groundwater substitution pumping. DWR and YCWA will cooperate in obtaining these measurements.
- ❑ Readings of flow meters on the discharges of the wells will be recorded every month during the pumping period by Member Units for each production well. In addition, electric meter readings and fuel consumption for diesel pumps will be recorded by the Member Units, and made available to YCWA upon request. The quantities of water pumped between successive readings will be calculated by Member Units and reported to YCWA.
- ❑ Electrical Conductivity will be measured for water pumped from selected production wells at the initiation of pumping (or as soon thereafter as practicable), two months after the initial EC measurements and at the termination of pumping.
- ❑ For selected production wells (to be identified before the monitoring plan is finalized) near YCWA monitoring wells, drawdown analyses (of distance and time) will be completed, and comparisons made to monitoring well water levels.

Impact Significance After Mitigation: Implementation of the above mitigation measure will reduce this groundwater impact to a less-than-significant level.

Impact 2: A change in groundwater substitution pumping that could impact local groundwater users in the Yuba Region

Finding 2: A Third-Party Impacts Action Plan will be implemented to minimize or avoid potential impacts to local groundwater users in the Yuba Region (see Mitigation Measure 6-2 in Chapter 6 of the Final EIR/EIS).

Action/Commitment: The purpose of this Third-Party Impacts Action Plan is to describe actions that will be undertaken by YCWA and the participating Member Units to respond to impacts to third parties that occur because of groundwater substitution pumping for transfers under the Water Purchase Agreement. Third parties include local groundwater users that could be affected by fluctuations in groundwater levels because of the pumping of such groundwater substitution water. YCWA and participating Member Units will agree that prompt responses to and mitigation of potential impacts to third parties are an important requirement for YCWA's present and future groundwater substitution transfers.

The action plan includes a series of steps that will be taken to ensure that the groundwater

substitution component of the Water Purchase Agreement does not cause significant, unmitigated impacts to third parties. Under this action plan, groundwater substitution pumping must not produce significant unmitigated impacts on third parties, impacts must be identified and mitigated as quickly as possible, and there must be ongoing, open communications with affected third parties. Because not all potential impacts can be known in advance, this plan provides a process for responding to concerns expressed by local groundwater users who believe that their water-production facilities are being or will be impacted by groundwater substitution pumping under the Water Purchase Agreement that is part of the Yuba Accord Alternative.

Monitoring Activities: Upon either YCWA or a participating Member Unit receiving notification of a potential third-party impact, YCWA or the Member Unit will immediately notify the other party of the nature of the potential impact. The Member Unit will promptly (within one day) contact the third party and obtain all available information regarding the nature and extent of the potential impact, and provide that information to YCWA. The Member Unit also will regularly update YCWA on the status of the Member Unit's response.

If the third party is not within the boundaries of any participating Member Unit of YCWA, then YCWA will either: (1) determine if it is evident that the third party is in close proximity to the groundwater-production facilities within a Member Unit that are involved in the groundwater substitution program, and designate the Member Unit or Member Units responsible for responding to the potential impact; or (2) consult with the Advisory Group concerning which Member Unit or Member Units should be designated for responding to the potential impact.

Impact Significance After Mitigation: Implementation of the above mitigation measure will reduce this groundwater impact to a less-than-significant level.

5.1.2.2 SURFACE WATER QUALITY

The Final EIR/EIS identifies potentially significant impacts to surface water resources, as stated below. These impacts will be reduced to less-than-significant levels through the incorporation of the mitigation measures that are summarized below and described in the MMRP/ECP in Chapter 6 of the Final EIR/EIS.

Impact 3: A change in salinity and chloride concentrations that could degrade water quality conditions in the Delta

Finding 3: Carriage water will be used to maintain salinity and chloride concentrations in the Delta (see Mitigation Measure 9-1 in Chapter 6 of the Final EIR/EIS).

Action/Commitment: Carriage water includes water supplemental to transferable water volumes that provides for any incidental loss of transferable water volumes or increases Delta outflows in association with water transfer events, for the purpose of maintaining or enhancing water quality. As an example, if an entity like the EWA Program (or an equivalent program), wanted to pump 80 acre-feet (AF) of water from the Delta, then the entity would have to buy 100 AF of water. The 100 AF of water would be provided as inflow to the Delta and 20 AF of this water would be used to increase Delta outflow to ensure that chloride concentrations would not increase due to the 80 AF of increased pumping from the Delta. Reclamation's and DWR's work over the past few years indicates that the carriage water percentage required to maintain Delta water quality can range from 0 to 25 percent, or more. Given these newly developed techniques, the EWA can purchase water upstream from the Delta, but for every acre-foot purchased, 0 to 25 percent or more of that acre-foot must be dedicated to increase

Delta outflow. The remainder may be pumped at the CVP/SWP pumping plants without causing any increase in chloride concentrations within the Delta due to the EWA Program.

Monitoring Activities: In the last two years, Reclamation and DWR have developed a method of using DSM2 on a real time basis to estimate the amount of carriage water needed in that year to pump EWA water (or any other water supply including SWP water users, the CVP, and other entities purchasing water upstream from the Delta) without causing an increase in chloride concentration in the Delta.

Impact Significance After Mitigation: Implementation of the above mitigation measure will reduce this water quality impact to a less-than-significant level.

Impact 4: A change in reservoir refilling could impact water quality in the Delta

Finding 4: YCWA operational flexibility will be used to ensure that refilling of New Bullards Bar Reservoir will not adversely affect water quality in the Delta and Export Service Areas south of the Delta (see Mitigation Measure 9-2 in Chapter 6 of the Final EIR/EIS).

Action/Commitment: Refill conditions in New Bullards Bar Reservoir generally occur during February and March. During this time, YCWA has the operational flexibility to ensure that refilling of the reservoir will not adversely affect water quality in a manner that could potentially impact beneficial uses in the Delta and export service areas south of the Delta.

Monitoring Activities: If it is anticipated that reductions in lower Yuba River flow during the refill period would impact water quality conditions in the Delta, then YCWA will apply a water accounting procedure to determine the volume of water that would have been stored in the reservoir during the winter refill period. The amount of water foregone will be accounted for and repaid by YCWA through the refill accounting mechanisms described in the Water Purchase Agreement and Exhibit 2 to that agreement (see Appendix M2).

Impact Significance After Mitigation: Implementation of the above mitigation measure will reduce this water quality impact to a less-than-significant level.

5.1.2.3 FISHERIES AND AQUATIC RESOURCES

The Final EIR/EIS did not identify any potentially significant impacts to fisheries and aquatic resources. However, several environmental commitments have been incorporated into the Project, and a detailed description of each environmental commitment is presented in the MMRP/ECP in Chapter 6 of the Final EIR/EIS. Implementation responsibilities for some of the environmental commitments described in the MMRP/ECP will be shared by Reclamation and DWR and, thus, do not involve YCWA. YCWA is responsible for implementing the environmental commitment that is described here:

Environmental Commitment 10-1: The River Management Team (RMT) would oversee various environmental actions for the lower Yuba River, including operation of water temperature devices, the planning of fisheries monitoring and studies, and habitat enhancement measures.

Environmental Commitment 10-1: The RMT will oversee various environmental actions for the lower Yuba River, including operation of water temperature devices, the planning of fisheries monitoring and studies, and habitat enhancement measures.

Action/Commitment: The Fisheries Agreement will provide for the continuation of the RMT and the River Management Fund (RMF). The RMT is composed of representatives from YCWA, CDFG, NMFS, USFWS, Reclamation, and SYRCL, and is charged with providing a

forum for consensus-based decisions and actions for management of the lower Yuba River. Primary fisheries resources of concern for monitoring and habitat enhancement in the Yuba River include Central Valley steelhead, spring-run Chinook salmon, fall run Chinook salmon, American shad, and Southern Distinct Population Segment (DPS) of North American green sturgeon.

Upon implementation of the Yuba Accord Alternative, the RMT will oversee various environmental actions for the lower Yuba River, including consulting on various operational decisions, operation of water temperature gages, the planning of fisheries monitoring and studies, and habitat enhancement measures. The RMF, which is administered by the RMT, will be funded by YCWA (approximately \$6 million for fisheries monitoring and studies) to finance a long-term fishery monitoring, study, and enhancement program for the lower Yuba River. The specific duties of the RMT are further specified in Sections 5.2 and 5.3 of the Fisheries Agreement, and include:

- Evaluating the condition of fish resources in the lower Yuba River;
- Evaluating the viability of lower Yuba River fall-run Chinook salmon, as well as the lower Yuba River populations of the Central Valley steelhead DPS and the spring-run Chinook salmon Evolutionarily Significant Unit (ESU);
- Evaluating the effectiveness of implementation of the Lower Yuba River Accord flow schedules on the condition and viability of lower Yuba River fish resources;
- Implementing habitat improvement and non-flow enhancement actions and activities;
- Implementing flow-based enhancement actions; for example, purchasing water for flows above the flows required by implementation of the Accord flow schedules;
- Retaining expert advise for specific technical questions;
- Retaining expert(s) for disputed resolution process; and
- Paying local shares of grant-funded projects for fish or fish habitat in the lower Yuba River, specifically to facilitate unique grant-matching opportunities

Monitoring Activities: Monitoring activities include both core studies that will be undertaken for the entire duration of the Yuba Accord, and focused studies that will be undertaken to provide additional insights into specific issues or areas of concern. Core studies will include, but are not limited to:

- Collection of water temperature data
- VAKI Riverwatcher fish monitoring
- Chinook Salmon Escapement Survey
- Monitoring downstream movement of juvenile salmonids using rotary screw traps

Focused studies may include, but are not limited to:

- Juvenile salmonid habitat use
- Age-specific survival rates
- Salmonid genetic analysis

Additional criteria for Core and Focused studies are included in Appendix A to the Fisheries Agreement.

Effects of Environmental Commitment 10-1: Implementation of the above environmental commitment will protect and enhance environmental conditions for fisheries and aquatic resources in the Yuba Region.

5.1.2.4 AIR QUALITY

The Final EIR/EIS identifies potentially significant impacts related to air quality, as stated below. These impacts will be reduced to less-than-significant levels through the incorporation of the mitigation measures that are summarized below and described in the MMRP/ECP in Chapter 6 of the Final EIR/EIS.

Impact 5: Increases in groundwater pumping causing an increase in emissions

Finding 5: Provide certification documentation to Reclamation and DWR indicating that groundwater pumping sources will not increase emissions, to ensure that no net impacts to air quality will occur (see Mitigation Measure 15-1 in Chapter 6 of the Final EIR/EIS).

Action/Commitment: To ensure that no net impact air quality will result from groundwater substitution pumping in addition to deficiency pumping during extremely dry years, YCWA will provide to the EWA agencies (i.e., Reclamation and DWR) a statement, with appropriate supporting documentation, demonstrating that the total volume of groundwater to be pumped within Yuba County can be conducted using pumping sources that will not contribute to a air quality impacts. In addition, if the EWA agencies obtain water from groundwater substitution, the EWA agencies and willing sellers will work together to implement one, or a combination, of the following mitigation measures that is appropriate to reduce impacts to a less-than-significant level. The mitigation measures will be implemented within each willing seller's air district.

EWA agencies will require willing sellers to use electric or propane-fueled pumps. For each propane-fueled pump, a diesel engine within the district that is not a part of the EWA must be replaced with a propane or electric pump to 'offset' the emissions from the project-related pump.

EWA agencies will require the willing sellers to purchase offsets to compensate for producing project-related emissions.

Monitoring Activities: Verify that water pumped for groundwater substitution transfers either would be obtained: (1) from electric-powered motors; or (2) from diesel-powered motors operating according to an emission offset. YCWA will obtain readings from the groundwater pump flow meters through monthly reports from the participating Member Unit wells during groundwater substitution operations.

Reporting Requirements: Certifications will be furnished to the Technical Committee, pursuant to the requirements of the Yuba Accord agreements. During the implementation of groundwater substitution transfers under the Yuba Accord Alternative, YCWA will participate in close monitoring of the groundwater basin. As stated in the EWA Final EIS/EIR released in January 2004, future groundwater transfers to the EWA require an established measurement and monitoring program for groundwater levels and storage, groundwater quality, land subsidence, and groundwater and surface water interactions (Reclamation *et al.* 2004).

Impact Significance After Mitigation: Implementation of the above mitigation measure will reduce this air quality impact to a less-than-significant level.

5.4 FINDINGS REGARDING SIGNIFICANT AND UNAVOIDABLE ENVIRONMENTAL IMPACTS

A significant unavoidable impact is an impact that will result in a substantial change in the environment that cannot be avoided or mitigated to a less-than-significant level if the project is implemented. The Project will result in a potentially significant and unavoidable impact to power consumption in the Yuba Region. Under the Yuba Accord Alternative, the use of fuel will be required to power generators to produce electricity to run the wells that will be used for the extraction of groundwater in Yuba County, which will result in unavoidable impacts associated with an increase in energy usage (increased annual power consumption for pumping). These unavoidable impacts will be potentially significant because they will require the generation of electrical energy from another source (to replace lost hydroelectric generation or to provide additional power for pumping). Replacement or additional generation will likely come from a thermal generation source, such as a combined cycle natural gas fired turbine, or a coal fired power plant (see Chapter 7 of the Draft EIR/EIS). Even with the implementation of all feasible mitigation measures and environmental commitments, the use of energy resources to implement the Project is considered a significant and unavoidable impact.

6.0 FEASIBILITY OF POTENTIAL PROJECT ALTERNATIVES

CEQA requires the lead agency, YCWA, to consider a range of potentially feasible alternatives to the Proposed Project (see Public Resources Code Sections 21002 and 21081; also see CEQA Guidelines Section 15126.6(f)). The range of alternatives is governed by a “rule of reason” that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The alternatives shall be limited to ones that would avoid or substantially lessen any of the significant impacts of the Project. Of those alternatives, the EIR need examine in detail only the ones that the lead agency determines could feasibly attain most of the basic objectives of the project. Additionally, CEQA does not require the consideration of alternatives that are incompatible with the fundamental objectives of the program or alternatives that would change the basic nature of the Project. A comprehensive explanation of the all of the alternatives considered during the settlement negotiations leading to the development of the Project is provided in Appendix C of the Draft EIR/EIS. The alternatives that are evaluated in detail on the Draft EIR/EIS are discussed here.

6.1 CEQA NO PROJECT ALTERNATIVE

The CEQA No Project Alternative describes current environmental conditions plus potential operational and environmental conditions that may occur in the near-term foreseeable future (2007 through 2025) if the Project or other alternative is not implemented. For CEQA purposes, the CEQA No Project Alternative is characterized by conditions that would be different from the CEQA Existing Condition.

The two primary differences between the CEQA Existing Condition and the CEQA No Project Alternative are:

- ❑ The instream flow schedule of the CEQA No Project Alternative would be the RD-1644 long-term instream-flow requirements rather than the RD-1644 interim instream-flow requirements, which are included in the CEQA Existing Condition.
- ❑ The Wheatland Canal would be operational under the CEQA No Project Alternative, which would increase average annual diversions at Daguerre Point Dam by approximately 40 thousand acre-feet (TAF) over the amounts in the CEQA Existing

Condition, thereby increasing annual in-lieu groundwater recharge in Yuba County by a similar volume.

These two changes would significantly affect the ability of YCWA to continue to transfer stored surface water and therefore to generate a revenue stream for continued investment in flood control and water supply projects, and for projects to protect and enhance lower Yuba River fisheries resources.

6.2 NEPA NO ACTION ALTERNATIVE

The key elements and activities (e.g., implementation of the RD-1644 long-term instream flow requirements and implementation of the Wheatland Project) described above for the CEQA No Project Alternative also are included in the NEPA No Action Alternative. However, as required by NEPA, the No Action Alternative assumes that 2025 conditions would be in place, which would be different from the 2007 conditions assumed for the CEQA No Project Alternative. Although implementation of the RD-1644 long-term instream flow requirements would occur under both the CEQA No Project and the NEPA No Action alternatives, the resultant model outputs for both scenarios are different because of variations in the way existing and future YCWA, Reclamation, and DWR operations are characterized (see Appendix D to the Draft EIR/EIS). Additional differences between the CEQA No Project Alternative and the NEPA No Action Alternative involve the number of other reasonably foreseeable future projects that are on the planning horizon.

Similar to the CEQA No Project Alternative, implementation of RD-1644 long-term instream-flow requirements and Wheatland Canal operations would significantly affect the ability of YCWA to continue to transfer stored surface water and therefore to generate a revenue stream for continued investment in flood control and water supply projects, and for projects to protect and enhance lower Yuba River fisheries resources.

6.3 MODIFIED FLOW ALTERNATIVE

While the CEQA No Project and the NEPA No Action alternatives include future flow regimes based on RD-1644, the Modified Flow Alternative represents a scenario in which RD-1644 would not remain in effect. Instead, instream flow requirements would be based on YCWA's voluntary implementation of the RD-1644 Interim flows (which are similar to the flows in a minimum flow proposal made by YCWA during the RD-1644 hearings), modified to include Conference Year requirements for the driest one percent of water years.

As described in Chapter 7 of the Draft EIR/EIS, the Modified Flow Alternative also would result in a potentially significant and unavoidable impact to long-term average annual power consumption for groundwater pumping within the YCWA Member Unit service areas in the Yuba Region. The Modified Flow Alternative, relative to the CEQA Existing Condition, also would result in potentially significant and unavoidable impacts to long-term average monthly hydropower generation at New Colgate, and Narrows I and II powerhouses (see Chapter 7 of the Draft EIR/EIS).

6.4 YUBA ACCORD ALTERNATIVE (ENVIRONMENTALLY SUPERIOR ALTERNATIVE)

For the reasons discussed in section 3.6 of the Draft EIR/EIS, YCWA selects the Yuba Accord Alternative as the environmentally superior alternative under Section 15126.6(e)(2) of the CEQA Guidelines.

7.0 OTHER ENVIRONMENTAL CONSIDERATIONS

7.1 CUMULATIVE IMPACTS

Chapter 21 of the Draft EIR/EIS discusses reasonably foreseeable, relevant programs, projects, and water management actions considered in the cumulative analysis and their interrelationships with one another. The analysis provided in Chapter 21 focuses on those projects that, when combined with the Yuba Accord, could contribute to cumulative impacts. A summary of reasonably foreseeable programs and projects that were considered in the cumulative impact analyses is in Table 21-1 in Chapter 21 of the Draft EIR/EIS.

Resource specific cumulative impacts are analyzed and presented in each of the individual resource chapters included in the EIR/EIS. The discussion of cumulative water supply changes that could be expected under future with-project conditions, relative to future without-project conditions, provides quantified hydrological information that is used to evaluate cumulative impacts on specific resources. While significant conclusions are not discussed for cumulative water supply changes, they are discussed for resource-specific impacts that may be affected by water supply changes. Table 1-4 in Chapter 1 of the Final EIR/EIS summarizes the findings of the cumulative impacts analyses. Resources within the project study area where potentially significant and unavoidable cumulative impacts could occur include:

- Surface Water Supply and Management
 - Yuba Region
 - Delta Region
 - Export Service Area
- Power Production and Energy Consumption
 - Yuba Region
 - CVP/SWP Upstream of the Delta Region
 - Delta Region
 - Export Service Area
- Surface Water Quality
 - CVP/SWP Upstream of the Delta Region
 - Delta Region
- Fisheries and Aquatic Resources
 - CVP/SWP Upstream of the Delta Region
 - Delta Region
- Terrestrial Resources
 - CVP/SWP Upstream of the Delta Region
- Recreation
 - CVP/SWP Upstream of the Delta Region
 - Delta Region

With the exception of increased power consumption in the Yuba Region, there would be no potentially significant unavoidable project-related impacts to the resources listed above just as a result of implementing the Yuba Accord Alternative. However, the Yuba Accord, in combination with the impacts of other reasonably foreseeable future projects could result in potentially significant unavoidable cumulative impacts on these resources.

7.2 GROWTH INDUCEMENT

To evaluate the growth-related physical changes in the environment that may occur from a project, it is necessary to identify where and to what extent future growth will occur. The direct growth-related impacts of a water supply project would involve localized economic effects such as job growth and temporary increased demand for housing related to project construction. The indirect effects of water supply projects are related to the physical changes, particularly new construction, that would occur as a result of the additional water supplies being available to local governments. It can be difficult to identify with any degree of precision potential indirect growth-related impacts that may result from an increase in water supply

The Project, through the stimulation of the local economy in Yuba County by increased water supply reliability, is not expected to accommodate or induce growth. Although growth is projected to occur in Yuba County, it would occur whether or not the Project is implemented. Growth in Yuba County has been planned for in city and county general plans, and many of these planning documents also identify water supply sources besides the Yuba River Accord to accommodate previously approved levels of growth. Because the principal components of the Project will be in place for a period of approximately eight years and will provide water for agricultural purposes only, new Yuba County development projects requiring long-term water supply sources for municipal and industrial (M&I) purposes will not be served by this project.

As analyzed in the Draft EIR/EIS, the Yuba Accord Alternative, relative to the CEQA bases of comparisons, will not result in potentially significant impacts or contribute to growth inducement. Thus, implementation of the Project will not result in any potentially significant unavoidable growth-inducing impacts. Because specific growth-inducing impacts associated with the Project were not identified in the analysis, no mitigation of such impacts is required.

Even though there will be some differences in the allocations of Component 1, 2, 3 and 4 water during the first phase of the Yuba Accord Alternative, compared to that which was analyzed in the Draft EIR/EIS (see Chapter 3 of the Final EIR/EIS), deliveries of Yuba Accord transfer water to the SWP contractors still will not cause total deliveries of water to any SWP contractor to exceed its Table A amount. The first phase of the Yuba Accord Alternative will not be of a sufficient duration to result in any permanent new water supplies to any SWP contractor.

7.3 ENVIRONMENTAL JUSTICE

Environmental justice focuses on the issue of whether an action will have a disproportional effect on minority or low-income populations. State law defines environmental justice in Government Code Section 65040.12(e) as the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies. Government Code Section 65040.12(a) designated the Governor's Office of Planning and Research (OPR) as the coordination agency in State government for environmental justice programs, and requires OPR to develop guidelines for incorporating environmental justice into general plans.

The analysis of environmental justice impacts for this project examines the extent to which each alternative would affect a local economy and the different socioeconomic groups participating in the local economy. Qualitative methods were used to evaluate whether any of the alternatives considered as part of the EIR/EIS would result in fair and equal treatment of minorities and low-income persons in the Yuba Region. Neither the Project nor any alternative would result in any unfair or unequal treatment of any socioeconomic group within the Yuba Region, or in any disproportionately high or adverse impacts on minority or low-income communities (See Chapter 19, Environmental Justice).

7.4 SIGNIFICANT IRREVERSIBLE ENVIRONMENTAL CHANGES

Section 15126.2(c) of the CEQA Guidelines states that use of nonrenewable resources during the initial and continued phases of a proposed project may be irreversible if a large commitment of these resources makes their removal, indirect removal, or non-use thereafter unlikely. Significant irreversible changes include the use of nonrenewable resources, the commitment of future generations to similar use, irreversible damage resulting from environmental accidents associated with the project, and irretrievable commitments of resources.

The Yuba Accord Alternative will not involve construction or the use of any resources besides water, with one exception. This exception is for power production and energy consumption, because electricity will be needed to run well pumps for the extraction of groundwater in Yuba County, which will result in unavoidable impacts associated with an increase in energy usage (increased annual power consumption for pumping). These unavoidable impacts will be potentially significant because they will require the generation of electrical energy from another source (to replace lost hydroelectric generation or to provide additional power for pumping). Replacement or additional generation will likely come from a thermal generation source, such as a combined cycle natural gas fired turbine, or a coal fired power plant (see Chapter 7 of the Draft EIR/EIS). The operational strategies, protective measures and avoidance actions incorporated into the Yuba Accord Alternative will prevent any irreversible or irretrievable commitments of any other nonrenewable resources. There will be no other commitment of nonrenewable resources, and the Yuba Accord Alternative will not commit future generations to any permanent use of natural resources.

8.0 STATEMENT OF OVERRIDING CONSIDERATIONS FOR UNAVOIDABLE SIGNIFICANT ENVIRONMENTAL IMPACTS IDENTIFIED IN THE FINDINGS AND IN THE FINAL EIR/EIS

Before approving a project for which an EIR has been certified and for which findings have been made that one or more significant impacts will result because mitigation measures or alternatives identified in the EIR are infeasible, CEQA requires that the lead agency find that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant impacts on the environment. These findings must be written, and must state the agency's specific reasons supporting its action based on the Final EIR or other information in the record. The requirements for a Statement of Overriding Considerations are specified in Section 15093 of the CEQA Guidelines and in Section 21081 of the Public Resources Code.

As discussed in the preceding sections, YCWA's approval of the Project will result in significant adverse environmental impacts to local power consumption that cannot be avoided even with the adoption of all feasible mitigation measures. Despite the occurrence of these impacts,

however, YCWA approves the Project because, in YCWA's view, the environmental benefits of the Project will render the significant impacts acceptable.

In making this Statement of Overriding Considerations in support of the Findings of Fact and the Project, YCWA has considered the information contained in the Final EIR/EIS for the Project, as well as the public testimony and record of proceedings in which the Project was considered. YCWA has balanced the Project's benefits against the unavoidable adverse impacts identified in the Final EIR/EIS. For the reasons stated below, YCWA finds that the benefits of the project outweigh and render acceptable the unavoidable significant impacts to local power consumption identified in the Findings and in the Final EIR/EIS.

8.1 OVERRIDING CONSIDERATIONS AND SPECIFIC FINDINGS FOR SIGNIFICANT AND UNAVOIDABLE IMPACTS

The project will result in significant and unavoidable impacts on energy resources, even with the implementation of all feasible mitigation measures and environmental commitments. The use of energy resources to implement the Project is considered a significant and unavoidable impact because it the Project will increase the long-term average annual power consumption for groundwater pumping in YCWA Member Unit service areas.

In YCWA's judgment, the Project and its overall benefits outweigh its unavoidable significant impacts on power consumption. The following statements identify the reasons why, in YCWA's judgment, the benefits outweigh the unavoidable significant impacts. Any one of these reasons is sufficient to justify approval of the project. The substantial evidence supporting the various benefits can be found in the preceding findings, which are incorporated by reference into this section, and in the documents found in the Record of Proceedings, which is defined in Section 3.

The Project will provide the following benefits that will outweigh the unavoidable significant impacts of the Project:

- The Project will provide a level of protection for lower Yuba River fisheries equivalent to or greater than the level of protection under SWRCB RD-1644.
- The Project will improve YCWA's ability to manage Yuba County water supplies and increase water supply reliability to meet local service area needs.
- The Project will provide revenues that YCWA may use to fund: (1) a comprehensive conjunctive use program; (2) local shares of flood control improvements in Yuba County; and (3) implementation of a long-term fisheries monitoring, studies, and enhancement program.
- The Project will continue to provide water for use by the EWA Program, or an equivalent program.
- The Project will improve CVP and SWP water supply reliability.

9.0 APPROVAL

YCWA has certified the Final EIR/EIS, which includes the Draft EIR/EIS, pursuant to CEQA Guidelines Section 15090. CEQA Guidelines Section 15091(a) states that *"No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects unless the public agency makes one or more written findings for each of those*

significant effects, accompanied by a brief explanation for the rationale for each finding." These Findings constitute the independent conclusion, analysis, and rationale of YCWA.

As documented in these Findings and in the Final EIR/EIS, YCWA has determined that the Final EIR/EIS fully and adequately addresses the potential impacts, mitigation measures and environmental commitments of the Project. The number of project alternatives identified and considered in the Final EIR/EIS meets the test of "reasonable" analysis and provides YCWA with important information from which to make an informed decision. Public hearings were held in Marysville, California. Substantial evidence in the record from those hearings and other sources demonstrates various benefits and considerations including economic, legal, social, technological, and other benefits which would be achieved from implementation of the Project. YCWA has balanced these project benefits against the unavoidable and irreversible environmental risks and impacts identified in the Final EIR/EIS, and YCWA has concluded that those potential risks and impacts will be outweighed by the Project's benefits. Upon balancing the environmental risk and countervailing project benefits, YCWA has concluded that the benefits that will occur from implementation of the Project will outweigh those environmental risks and impacts. YCWA hereby determines that the above-described project benefits override the significant and unavoidable environmental impacts of the Project.

YCWA adopts the mitigation measures and environmental commitments described in the MMRP/ECP (Chapter 6 of the Final EIR/EIS), and finds that any residual or remaining impacts on the environment resulting from the Project, identified as significant and unavoidable in the preceding findings of fact, are acceptable due to the benefits set forth in the preceding Statement of Overriding Considerations.