

**Supplemental Information
To the Final Environmental Impact Statement**

TABLE OF CONTENTS

OVERVIEW2

A NEW EL DORADO HYDROELECTRIC PROJECT LICENSE2

**THE STATE WATER RESOURCES CONTROL BOARD'S WATER QUALITY
CERTIFICATION3**

THE COMMISSION'S DRAFT ENVIRONMENTAL IMPACT STATEMENT4

THE FINAL EIS4

USE OF AN EXISTING NEPA DOCUMENT TO SATISFY CEQA4

CIRCULATION OF THE SUPPLEMENTAL INFORMATION4

**CIRCULATION OF THE COMMISSION'S DRAFT EIS AND FINAL EIS IS
ADEQUATE5**

THE STATE WATER BOARD'S SUPPLEMENT TO THE FINAL EIS5

PROJECT BACKGROUND.....5

 THE EL DORADO HYDROELECTRIC PROJECT 184.....5

 PROJECT 184 FACILITIES:6

 APPURTENANT FACILITIES.8

PROJECT OPERATIONS8

WATER MANAGEMENT9

THE SETTLEMENT AGREEMENT9

GROWTH INDUCING IMPACTS.....10

ANALYSIS10

 CONSUMPTIVE WATER USE RELATED TO THE PROJECT 184 RELICENSING 11

PROMOTION OF ECONOMIC EXPANSION: INCREASED INDIRECT DEMAND ...14

**PROMOTION OF ECONOMIC EXPANSION: INCREASED PRESSURE ON LAND
USE INTENSIFICATION14**

**Supplemental Information
To the Final Environmental Impact Statement**

**Supplemental Information To the Final
Environmental Impact Statement
prepared by the Federal Energy
Regulatory Commission for the
Relicensing of the El Dorado
Hydroelectric Project (FERC #184)**

Overview

The purpose of this document is to provide an expanded discussion of growth inducing impacts for the State Water Resources Control Board's (State Water Board) use, together with the Federal Energy Regulatory Commission's (Commission) final Environmental Impact Statement (FEIS) for the relicensing of the El Dorado Hydroelectric Project (Project 184) owned by the El Dorado Irrigation District (EID), to meet the State Water Board's responsibility for California Environmental Quality Act (CEQA) compliance.

The State Water Board requests that reviewers limit their comments to the new information and analysis presented in this document. The State Water Board will respond to comments received on this supplemental information but is not accepting comments on the FEIS at this time.

Readers should refer to the August 2003 FEIS for the remainder of the project analysis not included in this supplemental information to the FEIS. Both the August 2003 FEIS and this supplemental information to the FEIS can be found on the State Water Board's website at: www.waterrights.ca.gov/FERC/ceqa_projects.html

The Commission's FEIS, this supplemental information to the FEIS, comments received on the supplemental information and the State Water Board's responses to comments will constitute the State Water Board's CEQA document.

A New El Dorado Hydroelectric Project License

The EID is a public agency located in Placerville, California, and serves 214 square miles of central and western El Dorado County. EID is the owner and operator of Project 184 licensed by the Commission.

Supplemental Information To the Final Environmental Impact Statement

On February 22, 2000, EID filed an application for a new license with the Commission for the continued operation and maintenance of the existing 21-megawatt (MW) Project 184. Project 184 is located on the South Fork of the American River (SFAR) and its tributaries in El Dorado, Alpine, and Amador counties, California, and occupies private lands and federally owned lands administered by the El Dorado National Forest and the Lake Tahoe Basin Management Unit (Figure 1).

If the project is found to be economical and in the public interest, the Commission may issue a new license for a period of thirty to fifty years. The process of relicensing includes public as well as state and federal agency participation in the Commission's decision whether to issue a new project license and what license conditions should be required of the project to comply with appropriate state and federal laws.

The State Water Resources Control Board's water quality certification

The federal Clean Water Act (33 U.S.C. § 1251 et seq.) was enacted "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." (33 U.S.C. § 1251(a).) Section 401 of the Act (33 U.S.C. § 1341) requires every applicant for a federal license or permit that may result in a discharge into navigable waters to obtain water quality certification. The State Water Board is the certifying agency in California. (Wat. Code, § 13160.) In issuing water quality certification, the State Water Board certifies that the project will comply with specified provisions of the Clean Water Act, including water quality standards that are developed pursuant to state law and in satisfaction of section 303 of the Act. (33 U.S.C § 1313.)

The State Water Board must decide whether to issue water quality certification for the continued operation of Project 184. The State Water Board may prescribe effluent limitations and other limitations necessary to ensure compliance with water quality standards and any other appropriate requirement of state law. (33 U.S.C. § 1341(d).) Conditions of certification will become conditions of the license issued by the Commission for Project 184.

Because of the federal and state actions associated with the water quality certification and issuance of a new Commission Project 184 license, compliance with both the National Environmental Policy Act (NEPA)(42 U.S.C §§ 4321–4370f) and CEQA (Pub. Resources Code §§ 21000-21177) is required.

Supplemental Information To the Final Environmental Impact Statement

The Commission's Draft Environmental Impact Statement

The Commission issued a draft Environmental Impact Statement (DEIS) for public comment on or about March 7, 2003. The purpose of the DEIS was to describe the existing project and to disclose the impacts associated with EID's request to relicense Project 184, including various operational and non-operational environmental protection, mitigation and enhancement (PM&E) measures. A range of alternatives were analyzed in the DEIS

The Final EIS

The Commission issued a final EIS (FEIS) for the Project 184 in August of 2003. The FEIS documents the views of the staff of the Commission regarding the proposed hydroelectric project. The FEIS also evaluates the effects of a range of alternatives, including EID's proposal to operate the project in accordance with a settlement agreement reached between various stakeholders, which is discussed below. Before the Commission makes a decision on EID's application, it will take into account all concerns relevant to the public interest.

The FEIS is part of the record from which the State Water Board will make its decision.

Use of an existing NEPA document to satisfy CEQA

CEQA encourages state and local agencies to use existing NEPA documents to avoid duplication and costs if the NEPA document will be prepared before a CEQA document otherwise would be prepared and the NEPA document, in the judgment of the state agency, meets the requirements of CEQA. (Cal. Code Regs., tit. 14, § 15221.)

Normally, an EIS does not contain separate discussions of mitigation measures or growth-inducing impacts because those points are not required as separate subjects for analysis under NEPA. Where the EIS is used in the place of an EIR, the discussion of mitigation measures or growth-inducing impacts should be added if necessary.

Circulation of the Supplemental Information

Section 15225 of the CEQA Guidelines provides that the Lead Agency under CEQA may use a federal document in the place of an EIR or Negative Declaration without recirculating the federal document for public review, provided that the federal agency circulated the NEPA document for public review as broadly as state law requires and gave notice meeting the standards in section 15072, subdivision (a) or 15087, subdivision (a). "One review and comment period is enough. Prior to using the federal document in this situation, the lead agency shall give notice that it will use the federal

Supplemental Information To the Final Environmental Impact Statement

document in the place of an EIR or negative declaration and that it believes that the federal document meets the requirements of CEQA. The notice shall be given in the same manner as a notice of the public availability of a draft EIR under Section 15087.” (Cal. Code Regs., tit. 14, § 15225.)

Circulation of the Commission's draft EIS and final EIS is adequate

The Commission gave public notice of the availability of the DEIS and widely distributed the DEIS to the public for review and comment on the analysis of the environmental effects of the proposed project and the action alternatives examined in the DEIS. The FEIS included responses to the comments received during the review of the DEIS. The State Water Board finds that the Commission circulated the DEIS and FEIS for agency and public review as broadly as State law requires and gave notice meeting the standards in section 15087, subdivision (a), meeting the standards for circulation and notification. (Cal. Code Regs., tit. 14, § 15225.)

The State Water Board's Supplement to the final EIS

This supplemental information evaluates the growth inducing impacts of the project. Since the project described in the FEIS has not changed, the various alternatives are not evaluated in this supplemental document.

Project Background

The El Dorado Hydroelectric Project 184

Project 184 is located on the SFAR and several tributaries to the SFAR. Project components occupy both private land and land administered by the Eldorado National Forest. A total of 2,237.02 acres of federally owned lands are enclosed within the project boundary. Of this total, 1,334.03 acres are administered by the Eldorado National Forest. No transmission lines are included within the project.

Portions of Project 184 were built from 1860 to 1876 for gold mining operations. After 1884, water from the project was used for industrial, irrigation, and domestic purposes in the Placerville area. Although the project was initially constructed to provide irrigation water, hydroelectric generation capability was added from 1922 to 1924. Hydroelectric operations began in 1924. EID purchased Project 184 from the Pacific Gas and Electric Company. On April 2, 1999, the Commission approved the transfer to EID of the federal license to operate Project 184, and on September 16, 1999, the California Public Utilities Commission approved the transfer to EID of project facilities and related assets, including water rights.

Supplemental Information To the Final Environmental Impact Statement

Project 184 Facilities:

- Lake Aloha main dam, a 113-foot-long, 20-foot-high rubble and masonry main dam with a crest elevation of 8,114.27 feet National Geodetic Vertical Datum (NGVD) and a 32-inch by 32-inch discharge conduit controlled by a 30-inch by 30-inch steel slide gate that releases flows to Pyramid Creek, a tributary of the SFAR;
- Lake Aloha, a reservoir that covers 590 acres (at full pond elevation of 8,114.07 feet NGVD) with usable storage of 5,179 acre-feet; Eleven auxiliary dams along Lake Aloha, composed of rock or rock with earthfill, that range from 1.3 to 8.5 feet high and from 9 to 140 feet in length with crest elevations that range from elevation 8,114.07 feet (Dam No. 6) to 8,119.67 feet NGVD (Dam No. 10);
- Echo Lake, a reservoir that covers 335 acres (at full pond elevation of 7,411.5 feet NGVD) with a usable storage of 1,943 acre-feet; Echo Lake dam, a 320-foot-long, 14-foot-high roller-compacted concrete dam with a crest elevation of 7,413.0 feet NGVD, which includes a 30-foot-long spillway and an intake structure that regulates flow through the Echo Lake conduit. Echo Lake conduit is a 6,125-foot-long conduit, consisting of 0.46 mile of 36-inch diameter pipe, 0.49 mile of open ditch, and 0.21 mile of tunnel, from Echo Lake to the SFAR;
- Caples Lake, a reservoir that covers 624 acres (at full pond elevation 7,797.7 feet NGVD) with an active usable storage of 20,338 acre-feet; Caples Lake dam, a 1,200-foot-long, 84.5-foot-high gunite-core, earthfill main dam with a crest elevation of 7,804.4 feet NGVD and a 403-foot-long, 4.5-foot horseshoe-shaped discharge tunnel controlled by three 2.5-foot by 2.5-foot slide gates at different elevations in a gate shaft that releases flows to Caples Creek, then the Silver Fork of the American River (Silver Fork) and ultimately to the SFAR;

One auxiliary dam on Caples Lake consisting of a concrete gravity and arch section that is 164 feet long with a fixed crest elevation of 7,800.9 feet NGVD and 1-foot high wooden flashboards, a 131.5-foot-long concrete arch spillway with a fixed crest elevation of 7,797.9 feet NGVD and 3-foot-high wooden flashboards, and an earth-fill section with a concrete core that is 291.5 feet long and has a crest elevation of 7,803.9 feet NGVD and a 2-foot-high gunite wave coping;

- Silver Lake, a reservoir that covers 502 acres (at full pond elevation of 7,261.07 feet NGVD) with a usable storage of 8,640 acre-feet; Silver Lake dam, a 280-foot-long, 30-foot-high rock and earth-fill dam with a crest elevation of 7,261.07 feet NGVD that includes a 55-foot-wide spillway structure with two 14-foot, 9-inch by 11-foot, 3-inch radial gates and two 6-foot-wide flashboard bays and an intake structure with a 36-inch gate, which controls flows through 26-inch-diameter pipe that discharges to the Silver Fork;

Supplemental Information To the Final Environmental Impact Statement

- El Dorado diversion dam, a 165-foot-long, 12-foot-high steel crib dam structure composed of steel bins filled with rock and gravel, with a crest elevation of 3,910.58 feet NGVD impounding approximately 200 acre-feet of the SFAR, and a fish ladder and an intake structure with fish screens on the entrance;
- El Dorado canal, a 22-mile-long conveyance from the El Dorado diversion dam to the El Dorado forebay consisting of unlined and lined, open canal; lined and unlined tunnels; a flume; and steel pipe sections;
- Alder Creek diversion dam, a 70-foot-long, 9.5 foot-high concrete dam with a crest elevation of 3,997.8 feet NGVD, which diverts flows via the Alder Creek feeder, which is a 0.87-mile-long, 18-inch-diameter steel pipe to the El Dorado canal;
- Mill Creek diversion dam, a 30-foot-long, 3-foot-high concrete dam that diverts flows via a 150-foot-long, 14-inch-diameter steel pipe to the El Dorado canal;
- Bull Creek diversion dam, a 22-foot-long, 26-inch-high concrete dam that diverts flows via a 117-foot-long, 2-foot-wide by 1-foot-deep wooden flume to the El Dorado canal;
- Carpenter Creek diversion dam, a 16-foot-long, 38-inch-high concrete dam that diverts flows via a 88-foot-long, 2-foot-wide by 2-foot-deep wooden flume to the El Dorado canal;
- Ogilby Creek diversion dam, a 9-foot-long, 2.5-foot-high rock rubble dam that diverts flows via a 250-foot-long earthen ditch about 4 feet wide by 20 inches deep that transitions to a 31-foot-long, 24-inch-wide by 28-inch-deep wooden flume to the El Dorado canal;
- Esmeralda Creek diversion dam, a 50-foot-long, 4-foot-high concrete dam that diverts flows via a 196-foot-long, 5-foot-diameter Lennon flume (semi-circular steel) to the El Dorado canal;
- No Name Creek diversion dam, a 24-foot-long, 3-foot-high concrete dam that diverts flows via a 27-inch-diameter, semi-circular open steel flume to the El Dorado canal;
- El Dorado forebay, a reservoir that covers 23 acres (at full pond elevation 3,792.23 feet NGVD) with a usable storage of 356 acre-feet; El Dorado forebay dam, a 836-foot-long, 91-foot-high earth-fill dam with a crest elevation of 3,794.63 feet NGVD, with a 60-inch-diameter intake conduit through the dam connecting to the El Dorado powerhouse conveyance, and an emergency spillway with a 299-foot-long, 20-foot-wide by 6.6-foot-deep, gunite-lined flume leading to a 72-inch-diameter steel pipe

Supplemental Information To the Final Environmental Impact Statement

that discharges to Long Canyon Creek, which feeds into the Slab Creek Reservoir on the SFAR downstream of the El Dorado powerhouse;

- A 2.8-mile-long combination pipeline and penstock conveyance, consisting of 11,487 feet of steel pipeline from the forebay to a 124-foot-tall, 18-foot-diameter surge chamber on a 109-foot-high riser platform, and 3,443 feet of 54-inch diameter steel penstock extending from the surge chamber to the powerhouse; and
- A 110-foot-long by 40-foot-wide steel frame powerhouse with reinforced concrete walls that houses two single impulse turbines that are directly connected to two 11,500-kilowatt (kW) generators, producing about 106 gigawatt-hours (GWh) annually when operational.

Appurtenant facilities.

- A 36-inch-diameter cast iron outlet pipe through the El Dorado forebay dam is used to provide water to the EID irrigation canal. The pipe and irrigation canal are not part of the licensed project.

Project Operations

Project 184 includes four storage reservoirs. Water is stored in Lake Aloha, Echo Lake, Caples Lake, and Silver Lake for release after the spring runoff. Water from these lakes flows into the SFAR via tributaries of the SFAR.

“Water flow in the SFAR is diverted by the El Dorado diversion dam into the El Dorado canal. Seven smaller streams that are tributaries of the SFAR (Alder Creek, Mill Creek, Bull Creek, Carpenter Creek, Ogilby Creek, Esmeralda Creek, No Name Creek) are each diverted into the El Dorado canal. Up to 15 cubic feet per second (cfs) are diverted from Alder Creek from December 1 through June 15 and 10 cfs are diverted from each of the remaining six creeks. Flows from these creeks in excess of that diverted to the El Dorado canal are returned to the creeks downstream of the diversions. Flows of up to approximately 165 cfs, which is the hydraulic capacity of the canal, are diverted from the SFAR, depending on the available inflow to the canal from the seven creeks.” (FEIS, pp. 13-14.) The canal provides water to the El Dorado forebay. At the El Dorado forebay, flows are divided between the El Dorado powerhouse and the intake for EID’s irrigation canal. Flows that pass through the powerhouse pass through two single impulse turbines that are directly connected to two 11,500-kilowatt (kW) generators. Flows are then discharged back into the SFAR.

By order issued August 15, 2000, the Commission authorized the licensee to repair the diversion dam, which had been damaged by flood waters in 1997. EID completed reconstruction of the diversion dam during the fall of 2001. In addition, EID replaced a damaged and unstable section of the El Dorado canal by constructing a 10,300-foot-

Supplemental Information To the Final Environmental Impact Statement

long bypass tunnel from Mill Creek to Bull Creek. The Commission authorized the construction of this tunnel by order dated February 8, 2001, and EID completed the tunnel during the fall of 2002.

Water Management

In addition to generating power using Project 184 facilities, EID withdraws up to 15,080 acre-feet of water annually for irrigation supplies. "Water is drafted from the storage lakes beginning in July from Lake Aloha. Once Lake Aloha has been drawn down, it becomes necessary to draw from Caples Lake. Water is drawn from Caples Lake until after Labor Day, when water is drawn from Echo and Silver Lakes. Although exceptions have occurred, Silver Lake is maintained as high as possible until after Labor Day. Silver Lake must be fully drawn down, due to California Department of Water Resources [Division of Safety of Dam (DSOD)] requirements, by October 31 and all spillway flashboards must be removed and the spillway gates fully opened. Echo Lake must be fully drawn down, due to [DSOD] requirements, by November 15 and all spillway flashboards must be removed and the spillway gates fully opened. The purpose of these flashboard and spillway gate requirements at Silver and Echo lakes is to enable the dams to safely pass winter flood flows without restriction or risk of overtopping. The two lakes cannot be used to store water until the flashboards are replaced the following spring on or about April 1." (FEIS, p. 14.)

Under the existing Commission license, EID is required to maintain minimum flows from Lake Aloha and Silver and Caples lakes and in the bypassed reach on the SFAR and adhere to ramping rate restrictions for Silver and Caples lakes to protect aquatic resources. EID is required to maintain a minimum of 2,000 acre-feet of storage in Caples Lake at all times. There are no minimum storage requirements for the other reservoirs.

The Settlement Agreement

On June 26, 2001, various parties to the Commission's Project 184 relicensing proceeding agreed to engage in a public, collaborative process with EID with the goal of executing a Settlement Agreement that would resolve outstanding issues for the project relicensing. On April 29, 2003, EID filed with the Commission the *El Dorado Project, FERC Project No. 184, El Dorado Relicensing Settlement Agreement* (Settlement) that contains recommended protection, mitigation and enhancement (PM&E) measures as proposed by the Settlement parties (Appendix A). The purpose of the Settlement was to develop PM&E measures to recommend as final U. S. Forest Service Section 4(e) conditions and other mandatory license conditions to be included in a new license for the project.

The Settlement addressed the following issues: flow regimes and lake levels of project-affected waters, channel stabilization, monitoring of project-affected waters, fish

Supplemental Information To the Final Environmental Impact Statement

protective measures, wildlife and sensitive plant protective measures, noxious weed control, public information services, recreational enhancements, visual resource protection, road and trail access, and facility management. For the purposes of the Commission's FEIS, the Commission considered the proposed measures contained in the Settlement to have superseded the measures proposed by EID in EID's license application.

Growth Inducing Impacts

Section 15126.2, subdivision (d) of the CEQA Guidelines states that an EIR should discuss "the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment." Growth can be induced in a number of ways, including through the elimination of obstacles to growth, or through the stimulation of economic activity within the region.

To fully evaluate the potential growth inducing impact of the relicensing of Project 184, the following issues are evaluated:

- **Elimination of Obstacles to Growth:** The extent to which infrastructure capacity provided to the project site or a change in regulatory structure would allow additional development in the region; and
- **Promotion of Economic Expansion:** The extent to which relicensing of Project 184 could cause increased activity in the local or regional economy. Economic effects can include such effects as:
 - **Increased Indirect Demand:** The extent to which the project would generate secondary or indirect effects on other employment industries in the region.
 - **Increased Pressure on Land use Intensification:** The extent to which the project could result in increased pressure on the County to redesignate the land to higher land use intensities.

Analysis

The following analysis addresses whether or not the proposed relicensing of Project 184 would remove substantial obstacles to growth and to what extent the project would foster economic expansion. A key determination related to removing an obstacle to future growth is related to whether or not the relicensing of project 184 will directly or indirectly provide consumptive water to serve development that would otherwise be unavailable.

Supplemental Information To the Final Environmental Impact Statement

Consumptive Water Use Related to the Project 184 Relicensing

EID presently claims and exercises 15,080 acre-feet annually of pre-1914 consumptive water rights associated with Project 184. The water is made available from the facilities and operations of Project 184 at the Project's Forebay Reservoir, where it is conveyed into EID's internal systems for treatment and delivery.

In addition, on October 2, 1996, the State Water Board issued Decision 1635, granting the joint petition of El Dorado County Water Agency (EDCWA) and EID (collectively referred to as "El Dorado") for partial assignment of State-Filed Application 5645. Decision 1635 authorized El Dorado to make consumptive use of up to 17,000 acre-feet of water annually, made available from the South Fork American River watershed at Folsom Lake by the operations of the hydroelectric project (FERC Project 184) then owned by PG&E.

The sources of this 17,000 acre-foot entitlement are the natural flows of the South Fork, and water stored in Lake Aloha in El Dorado County, Caples Lake in Alpine County, and Silver Lake in Amador County. These three reservoirs are Project 184 facilities.

Various participants in the State Water Board's administrative proceeding, however, petitioned the State Water Board for reconsideration of Decision 1635. The State Water Board agreed to take its ruling under reconsideration. While the matter was under reconsideration, the Environmental Impact Report (EIR) and Supplement to it that EDCWA had prepared for the project were invalidated by the El Dorado County Superior Court. That court's decision was upheld on appeal. *County of Amador et al. v. El Dorado County Water Agency et al.* (1999) 76 Cal.App.4th 931.) In addition, Project 184 was severely damaged and rendered temporarily inoperable by damage from the storms and floods of January 1997. Further, EID entered into an agreement with PG&E to acquire Project 184.

In 1999, EID certified a new EIR addressing the environmental impacts of acquiring, repairing and operating Project 184, as well as obtaining the 17,000 acre-feet of additional consumptive water supply. The State Water Board, which still had Decision 1635 under reconsideration, accepted this 1999 EIR into its evidentiary record¹.

On August 16, 2001, the State Water Board issued Order WR 2001-22. This Order upheld Decision 1635's grant of 17,000 acre-feet annually of consumptive water rights, but imposed additional conditions upon that approval. One of the additional conditions was Standard Term 91. Term 91 bans diversions of water at times that the state and federal water projects are releasing stored water to maintain water quality requirements

¹ The 1999 EIR prepared by EID did not address the relicensing resource issues that are addressed in the FEIS prepared by the FERC for Project 184.

Supplemental Information To the Final Environmental Impact Statement

in the Sacramento/San Joaquin River Delta. The conditions that trigger Term 91 tend to occur during times that Project 184 is diverting water to storage and/or during times that El Dorado will require additional water supplies. Therefore, the imposition of Term 91 would decrease the actual yield of the 17,000 acre-foot supply by an undetermined amount. There was one additional condition of Permit 21112 that limits El Dorado's full exercise of this water right. El Dorado County had to approve and place into effect a new General Plan for land use that met certain criteria regarding the protection of rare plants that occur within El Dorado's service area. The State Water Board also required EID to submit a report setting forth the legal basis under which EID exercises the 15,080 acre-feet annually of pre-1914 water rights, accompanied by proofs necessary to support any and all claims of right.

The State Water Board has since issued Water Rights Permit 21112 to El Dorado, in conformance with Order WR 2001-22. However, the matter was litigated. Specifically, a coalition of parties led by the League to Save Sierra Lakes (League) sued to invalidate Order WR 2001-22 in its entirety. EID and EDCWA each filed suit to invalidate the State Water Board's imposition of Term 91. EID also filed litigation challenging the requirement to submit a report regarding its pre-1914 water rights. In addition, the League and the California Department of Fish & Game filed lawsuits in 1999 that question the validity of EID's 1999 EIR, upon which the State Water Board also relied in issuing Order WR 2001-22.

The state court challenges to Order WR 2001-22 were consolidated and briefed. On December 24, 2003 the trial court invalidated the State Water Board's imposition of Term 91 on El Dorado's water right. The State Water Board and other parties have appealed this portion of the ruling, and that appeal is still pending. The trial court did find that the State Water Board does have the authority to require EID to submit the required report regarding validity of its pre-1914 water rights.

The Court also ruled that the contentions in a lawsuit filed against State Water Board by the League to Save Sierra Lakes - which sought to overturn the approval of El Dorado's 17,000 acre feet primarily on CEQA grounds - lacked merit. The court explained that, because the State Water Board functioned as a "responsible agency" under CEQA when it approved El Dorado's water rights permit based on the 1999 EIR, the State Water Board properly assumed that the 1999 EIR complied with CEQA. (See Pub. Resources Code, § 21167.3.) The court also held that the State Water Board was not required to prepare a subsequent or supplemental EIR because the circumstances giving rise to such a requirement had not arisen. The court did *not* rule on the validity of the 1999 EIR for the purposes for which EID, as lead agency, had certified the document. However, the League has since voluntarily dismissed its separate lawsuits directly challenging the validity of that document.

The State Water Board made a determination that water was available for appropriation as a prerequisite to approving El Dorado's application. The availability of an additional 17,000 acre-feet of water annually that would be delivered through Project 184 facilities

Supplemental Information To the Final Environmental Impact Statement

to El Dorado's customers clearly has implications in terms of the anticipated level of future development within El Dorado's service area because the availability of future water supply is a limiting factor on growth in this area.

The direct or indirect impact of relicensing Project 184 on growth, however, depends on whether or not the proposed project is key to making the 17,000 acre-feet of water available for use. This determination is critical in deciding the growth inducing impact of the project relative to anticipated development within the El Dorado service area.

To determine whether or not the relicensing of the proposed project would eliminate a significant obstacle to growth by making additional consumptive water available to future El Dorado users, the State Water Board examined conditions that could be expected if Project 184 were not relicensed. The potential failure of FERC to relicense Project 184 is evaluated in the EIS as the "No Action Alternative" (see Section 3.4 of the FEIS, page 244). The text states:

Under the no-action alternative, EID would continue to operate the project under the terms and conditions of the existing license. The no-action alternative would result in no change to the existing environment. There would be continued energy production, but environmental measures proposed by EID and recommended by staff (discussed in the previous sections) would be foregone. There would be no change in the native aquatic species community that currently exists under the present flow regime.

If the hydroelectric element of Project 184 were decommissioned, EID would likely continue the operation of the project consistent with State Water Board Decision 1635 and subsequent Orders for water supply purposes.

The SWRCB concluded in WR 2001-22 that it had independent authority to grant and condition the 17,000 acre-foot annually consumptive use water right that was not affected by the Commission's existing or future license conditions for Project 184.

Based on the above, we conclude that failure to relicense Project 184 would not substantially hinder the diversion, treatment and delivery of water for consumptive use by El Dorado's customers. The action of the State Water Board issuing water quality certification for Project 184 would not result in the removal of a significant obstacle to growth within El Dorado's service area, related to the future availability of consumptive water. Therefore, water quality certification of Project 184 by the State Water Board and subsequent relicensing by the Commission would not result in growth inducing impacts or remove any obstacle to development within EID's service area related to the consumptive water supply served through Project 184 facilities.

Supplemental Information To the Final Environmental Impact Statement

Promotion of Economic Expansion: Increased Indirect Demand

As noted above, CEQA requires that the extent to which development of the proposed project could cause increased activity in the local or regional economy. Economic effects can include such effects as “increased indirect demand.” This effect concerns the project’s potential to generate secondary or indirect effects on employment levels in businesses that are not directly related to the project. With the proposed relicensing of Project 184, employment within the project area for the operation and maintenance of hydroelectric and recreational facilities is not expected to change substantially relative to historic operations during the project’s ownership by PG&E, or conditions that could be anticipated with continued operation of the project under the current license. Under the Settlements proposed PM&E’s, EID would develop and carry out a Recreation Implementation Plan. The plan would include recreational improvements such as the design and construction of a new boat launching facility at Caples Lake. The plan will also include project operational changes designed to enhance recreational use.

These improvements are expected to increase daily use levels at the improved facilities and this increase, in turn could foster indirect increases in employment at local related businesses such as non project campgrounds, equipment rental services, local lodging, grocery stores, gas stations and restaurants. It is important to note, however, that the nature of the proposed facilities improvements are largely enhancement projects and are not designed to substantially increase the capacity of these facilities to accommodate substantial numbers of new users. While expanded usage of these facilities could foster development of new businesses, possible expansion of existing businesses and, potentially, some related residential use, the extent of this development, if it occurs, is expected to be relatively small.

Promotion of Economic Expansion: Increased Pressure on Land use Intensification

The extent to which the proposed relicensing of Project 184 could result in increased pressure on the County to redesignate land to higher land use intensities is affected by two factors. First, if the proposed relicensing action makes available additional consumptive water to new development within the EID service area, the provision of the water supply could remove a significant obstacle to this development. Should this development proceed, demand to develop surrounding areas may increase along with pressure on the County to approve development in these surrounding areas.

Second, Project 184 facilities improvements and enhancements associated with the proposed relicensing action, particularly improvements to recreational facilities, may foster economic growth in and near the project area and may foster demand for additional development near businesses that are beneficially affected by the project.

Supplemental Information To the Final Environmental Impact Statement

As discussed above, a relicensing or decommissioning action would not remove a significant obstacle to providing an additional 17,000 acre-feet of consumptive water to existing and future users within the El Dorado service area. Because the availability of this water is not dependent upon relicensing of the project, water quality certification by the State Water Board and subsequent relicensing of Project 184 will not promote any economic expansion related to additional development that may be associated with the provision of the additional water supply.

The proposed project's effect on economic expansion in or near the project area, also is expected to be minimal. As discussed above, facilities improvements that are proposed as part of the project relicensing process are anticipated to increase recreational use. While expanded use of project recreational facilities could foster development of new businesses in and near the project area, this new development is expected to be relatively small and should not have a significant impact on economic expansion in and near the project area relative to existing conditions in those areas.