



August 12, 2002

Mr. Jim Abercrombie
General Manager
Amador Water Agency
12800 Ridge Road
Sutter Creek, CA 95685

Dear Mr. Abercrombie:

The Department of Fish and Game (Department) participated in the Amador Water Transmission project California Environmental Quality Act (CEQA) review as a responsible agency. The Department must make a discretionary decision about the project regarding issuance of a Lake and Streambed Alteration Agreement (LSAA), Fish and Game Code Section 1600 et. seq. We must make findings as to the adequacy of the CEQA document in issuing the LSAA. As we have indicated in previous letters submitted to the Amador Water Agency, we have concerns the project may have significant adverse direct and indirect impacts to wetlands, riparian and aquatic habitat, and terrestrial and aquatic wildlife species dependent on them including special status species that have not been adequately addressed or mitigated to a level less than significant.

This letter is to inform the Amador Water Agency that the Department finds the environmental document for project inadequate and cannot issue an LSAA for the project. The term "wildlife" means and includes all wild animals, birds, plants, fish, amphibians, and related ecological communities, including habitat upon which the species depend for its continued viability (Fish and Game Code Section 71 1.2(a)). Fish and Game Code Section 1601 (c) states that a government agency or public utility proposing a project subject to this section shall not commence operations on that project until the Department has found that the project will not substantially adversely affect an existing fish or wildlife resource or until the Department's proposals, or the decisions of a panel of arbitrators, have been incorporated into the project.

Based on our review of this project we believe the project as proposed will result in substantial adverse impacts to fish and wildlife and a substantial or potentially substantial adverse change in the physical condition of the area affected by the project (CEQA Section 15382). Therefore, the Department may require the preparation of a subsequent environmental document through a public process to disclose, analyze, and develop mitigation measures to address the potential adverse impacts on fish and

wildlife, and allow the Department, as a responsible agency, to find the project will not result in adverse impacts. We will outline in this letter what we consider to be the basis for the preparation of a subsequent EIR.

The Department participated in a field review on July 26, 2001 of the earthen canal the project proponent proposes to dewater in order to divert the water into a transmission pipeline. Numerous private landowners allowed the Department representative access to the areas where the earthen canal intercepts their property. The field review conducted by Ms. Tina Bartlett, representing the Department, was focused on field observations of fish and wildlife resources including the potential for occurrence of special status species and important wildlife habitat elements such as seeps, springs, wetlands, riparian habitats, and the appropriate habitat classification and evaluation of potential project impacts.

Several fish and wildlife resources were identified as possibly being at risk of substantial adverse direct, indirect, and cumulative impacts from the proposed project based on queries from the California Natural Diversity Data Base, California Wildlife Habitat Relationships System (CWHR), knowledge of general wildlife, plant, and aquatic resources in the area, the CEQA document for the project, and observations during the field visit. These determinations were based on the geographic distribution and habitat requirements of the fish and wildlife resources, and known occurrences of the fish and wildlife resources within the project's assessment area.

Canal Leakage

During the field visit, it was noted that a significant amount of water was flowing in the streams below the canal. Several streams not influenced by the canal leakage were visited for comparison. Those reference streams were dry, typical of intermittent conditions, whereas, the majority of the small tributaries to Jackson Creek exhibited perennial stream conditions below the canal. The small tributaries of the canal-influenced streams exhibited well-developed riparian vegetation and aquatic insects indicative of Class II watercourses (non-fish bearing waters where aquatic habitat is present for non-fish aquatic species). Above the canal, the same tributaries exhibited characteristics of Class III watercourses (no aquatic life or habitat present, capable of water and sediment transport under normal high water flow conditions). None of the examined tributaries exhibited surface flows above the canal and almost all exhibited surface flows below the canal. It was evident that canal leakage was contributing significantly to the flows of the tributaries to the creeks, making them perennial streams. These tributaries would become intermittent, Class III watercourses if the canal were dewatered. However, Mr. Roy Leidy, Director of Fisheries and Aquatic Sciences for EIP and representing the Amador Water Agency, in a letter to the Department dated September 26, 2001, stated that "this stream reach [South Fork Jackson Creek between locations 3 and 8], a little over one mile in length, is the only stream reach of the South

Fork that we determined would potentially become intermittent as a result of canal dewatering or repair," as opposed to perennial under natural conditions.

In addition to the observed Class II streams, there were numerous seeps, springs, and impoundments identified during the July 26, 2001 field visit, below the canal that appeared to be influenced by canal leakage. Seeps and springs were mentioned in the Amador Transmission Project Environmental Impact Report (EIR) which stated "the exact number of seeps, springs, or impoundments that have some hydrological reliance on canal leakage is unknown." Mr. Leidy clarified in a letter to the Department on September 26, 2001, this statement meant a tally had not been made of the number of seeps, springs, and impoundments potentially influenced by canal leakage. Mr. Leidy concluded "the ephemeral nature of most leaks that produce seeps and spring-like areas makes it impossible to list all possible locations." In our field review on July 26, 2001, we concluded that it would be feasible to quantify or estimate which seeps, springs, and impoundments are currently potentially influenced by canal leakage. Many of the seeps and springs identified on the field review exhibited hydric soils and obligate and facultative hydrophytic vegetation, indicating a more than ephemeral nature. Ms. Vicki Ehrhardt, one of the landowners along the canal, indicated to us that some leaks had been occurring for more than 15 years on her family's property despite their having notified the Amador Water Agency of the leaks.

A number of "impoundments" or ponds below or adjacent to the canal were observed to be receiving flows directly from the canal, such as at a pond on Toso Creek, and a pond on the Evitt family property. These ponds provide habitat for wildlife. While the impoundments may not be eliminated by the loss of water from the canal, they will likely change in physical condition and habitat suitability for aquatic species. With the exception of the pond on the Fregulia Ranch there was no mention of these impoundments receiving flows from the canal in the EIR. Page 4.2-30 of the EIR stated "... the number of waterbodies dependent on leakage from the canal for their existence is unknown but believed to be small." We believe the number of ponds potentially impacted by the project should have been quantified and included in the impact's analysis.

The Department concludes that an assessment of these features: streams, seeps, springs, wetlands, and impoundments influenced by canal leakage is necessary in order to determine the impact dewatering the canal may have on fish and wildlife resources. These features potentially provide habitat for listed species such as the California red-legged frog (*Rana aurora draytonii*), and special status species such as the foothill yellow-legged frog (*Rana boylei*), western pond turtle (*Clemmys marmorata*), and prairie wedgegrass (*Shenopholis obtusata*). A change in hydrology, however small, could potentially have a significant impact on these resources.

California red-legged frog

The EIR concluded since there have been no recent records for the California red-legged frog in Amador County, the species is presumed extirpated. The EIR did not present any data to support this conclusion. Area wide surveys to indicate species presence following U.S Fish and Wildlife survey protocols should have occurred prior to any determination for no positive detections. The EIR did not address the potential impacts of changes in flows in the Jackson Creek watershed and the impacts on California red-legged frogs that would result from the loss of canal waters leakage.

In the Sierra Nevada range, much of the potential red-legged frog habitat is unsurveyed areas, particularly private lands, is unknown. Therefore, the true status in this region is largely speculative (USFWS, 2000). Four (4) historic red-legged frog sightings occur within Smiles of the project boundary. These sightings were located in Amador County and include a 1966 report on Sutter Creek between Sutter Creek and Volcano and three reports between 1963 and 1967 in Hunt Gulch on Middle Bar Road southeast of The Town of Jackson.

Today only four documented populations are known to remain in the Sierra Nevada. The known occurrences are isolated populations ranging from 640 to 975 meters (2,100 to 3,200 feet) located in Butte (private land), Yuba (Plumas National Forest), Placer (El Dorado National Forest), and El Dorado Bureau of Land Management counties. Habitat use for the red-legged frog has proven to be variable and encompasses a broader range of conditions than what was previously thought to be required. In the Sierra Nevada, red-legged frogs have been documented in burned-over mine tailings, isolated ridgetop ponds, and ponds with exotic predators. All of the known red-legged frog populations within the Sierra Nevada are currently at low densities. Despite low densities, these populations are critical sources for the repopulation of red-legged frogs in the watersheds in which they occur and ultimately throughout the Sierra Nevada. It is likely that additional, small, undocumented populations currently exist within the Sierra Nevada.

California red-legged frogs have been observed using a variety of habitat types, including various aquatic, riparian, and upland habitats; they may complete their entire life cycle in a particular area without using other components (*i.e.*, a pond is suitable for all life stages) or utilize multiple habitat types. These variable life history characteristics enable red-legged frogs to change habitat-use in response to varying conditions. Breeding sites have been documented in a variety of aquatic habitats. Larvae, juveniles and adult red-legged frogs have been observed inhabiting streams, creeks, ponds, marshes, sag ponds, deep pools and backwaters within streams and creeks, dune ponds, lagoons, estuaries, and artificial impoundments, such as stock ponds and tailing ponds. Furthermore, breeding has been documented in these habitat types irrespective of vegetative cover. Red-legged frogs may breed in artificial ponds with little or no

emergent vegetation and have been observed to successfully breed and inhabit stream reaches that are not cloaked in riparian vegetation (USFWS 2000). The importance of riparian vegetation for this species is not well understood though vegetative cover has been associated with high densities of red-legged frogs (Hayes and Jennings 1988, Jennings 1988).

The Department recommended that USFWS protocol surveys be conducted for the California red-legged frog. Mr. Leidy's response letter did not address whether protocol surveys had been conducted for the project, rather he stated "these latter two species [California red-legged frog and yellow-legged frog] and a host of other species have been surveyed periodically since 1994 without result." Based on the information provided, we conclude that project specific protocol surveys have not been conducted for California red-legged frogs for the project. Therefore, activities proposed by this project have the potential to adversely affect the California red-legged frog and are being considered significant by the Department under the provisions of CEQA Guidelines Section 15380. The California red-legged frog is a species of special concern, meets the criteria for listing under the California Endangered Species Act (CESA), and is listed as threatened under the Federal Endangered Species Act (FESA). CEQA Section 15065(A) directs the lead agency to consider the potential to reduce the number or restrict the range of a listed species as a significant effect. The proposed project has the potential to further reduce the presence and availability of habitat suitable for breeding and occupancy by California red-legged frogs. The Department recommends the Amador Water Agency consult with the U.S. Fish and Wildlife Service for potential impacts to the California red-legged frog. The Department also recommends that USFWS protocol surveys be conducted in all water bodies that may be affected by the change in diversion of water in the canal and at the pipeline construction site and vicinity. Otherwise, presence should be assumed for these waters and mitigation measures should be developed to minimize impacts to a level less than significant and to avoid take of this species.

Foothill yellow-legged frog

The EIR concluded that since there have been no recent records for the foothill yellow-legged frog in Amador County, the species is presumed locally extirpated. The EIR did not present any data to support this conclusion, such as area wide surveys to indicate the species has been looked for extensively following accepted species-specific survey protocols with no positive detections. Furthermore, the EIR did not address the potential impacts of low flows in the Jackson Creek watershed on foothill yellow-legged frogs due to the loss of canal waters and canal leakage.

In 2000 and 2001, Pacific Gas and Electric Company survey crews found several populations of foothill yellow-legged frogs in the North Fork Mokelumne River and its tributaries. All of these populations are located upstream of the Tiger Creek Afterbay

(source of Amador Canal water). It can be further concluded that in the presence of adequate habitat, this species may occur within project affected areas.

The foothill yellow-legged frog requires shallow, flowing water, preferentially in small to moderate-sized stream situations with at least some cobble-sized substrate (Hayes and Jennings 1988, Jennings 1988b). This type of habitat is probably best suited to oviposition and likely provides significant refuge habitat for larvae and postmetamorphs (Hayes and Jennings 1988, Jennings 1988b). Foothill yellow-legged frogs are infrequent or absent in habitats where introduced aquatic predators (i.e., various fishes and bullfrogs) are present (Hayes and Jennings 1986, 1988). Management recommendations have included maintaining a flow regime that has riffle areas with a substrate of cobble-sized or larger rocks and ensures the presence of suitable habitat. Reduced flows resulting from the project may decrease the suitable available habitat available and leave the frogs more vulnerable to aquatic predators.

The foothill yellow-legged frog is a California species of special concern. The Department recommended species-specific surveys be conducted following accepted protocols in all water bodies that may be affected by the change in diversion of water in the canal and at the pipeline construction site and vicinity. Otherwise, presence should be assumed for these waters and mitigation measures should be developed to minimize impacts to a level less than significant and to avoid take of this species.

Western pond turtle

The perennial streams of Jackson Creek, New York Ranch Reservoir, and the undocumented impoundments that receive leakage water from the canal are suitable habitat for western pond turtles as well as the adjacent uplands are suitable nesting and over-wintering habitat. Western pond turtles have been observed in Jackson Creek and its watershed. The EIR did not address *how the* change from perennial to intermittent stream flows in Jackson Creek or how the loss of aquatic habitat in the reservoir and undocumented impoundments would impact the western pond turtle. The EIR did conclude the western pond turtle would persist in the absence of canal leakage. The Department believes these changed conditions could significantly impact the western pond turtle.

The EIR concluded the pipeline construction "could result in disturbance to the turtle" and "implementation of the Pipeline Alternative would not result in the elimination of the western pond turtle."

Bullfrogs (*Rana catesbeiana*) prey on juvenile western pond turtles (Moyle 1973). Holland (1991b) has observed a reduction in the abundance of juvenile western pond turtles in areas with bullfrogs. Increased water temperatures and less water surface

area due to lower streams flows may result in an increase in bullfrogs and warm water fishes that compete for food resources and predate western pond turtles. Drought may function as a direct mortality factor by eliminating the habitat or prey base required by western pond turtles for survival (D. Holland, unpubl. data). The changed hydrologic conditions in Jackson Creek may mimic drought conditions. The construction activities associated with the pipeline alternative may negatively impact western pond turtles. The western pond turtle is active year-round, however their level of activity is reduced in the winter months generally between October and February (Jennings and Hayes 1994). They over-winter and nest in upland areas of chaparral, oak woodland and grassland near riverine sites, and aquatic sites, and lacustrine habitats (Holland 1994). Use of these terrestrial sites may occur up to 500 meters from the watercourse.

The western pond turtle is a California species of special concern and is fully protected under Title 14, California Code of Regulations, Section 42. This designation prohibits take or possession of this species at any time (i.e., no take authorizations from the State are available). The Department recommended in comments on the draft EIR that mitigation be developed for the direct and indirect impacts to the western pond turtle from construction activities and reduced stream flows and no such mitigation has been proposed to date. There is the potential take could occur with the construction of the Pipeline Alternative. As described above, western pond turtles nest in terrestrial sites often up to 500 meters from watercourses. Mitigation measures shall be developed to minimize impacts to a level less than significant and to avoid take of this species if western pond turtles are found.

Prairie wedgrass

Prairie wedgrass occurs in wet meadows, springs, streambanks, ponds and seeps. This plant is included on List 2 of the California Native Plant Society list of species of concern, and meets the criteria for listing under CEQA Section 15380 as rare, threatened or endangered. There are 10 known occurrences of this plant in California, and many are historic occurrences. The EIR disclosed the population of prairie wedgrass occurs near the proposed pipeline construction and concluded there would be no impact. However, the impacts analysis did not consider how dewatering the Amador Canal may reduce flows in Oneida Creek and indirectly impact the population of prairie wedgrass. The location of this population lies in a riparian area on the north side of Oneida Creek along the edge of the creek. According to the data provided in the EIR, Oneida Creek receives 0.02 cfs average annual leakage of water from the canal. The loss of canal leakage will reduce the annual average flows in Oneida Creek by 11 %. One of the documented threats to Prairie wedgrass, as described in the California Native Plant Society, is hydrological alteration. Reduced flows in Oneida Creek have the potential to reduce the number of plants in the Oneida Creek population. The potential direct and indirect impacts to this plant should be evaluated and mitigation measures developed to avoid or minimize these impacts.

Aquatic species and habitat

Notwithstanding the conclusion in the EIR that the currently perennial streams would be otherwise naturally intermittent, they have functioned as perennial streams for more than 100 years with the influence of canal leakage. The dewatering of the canal is a significant change in the current conditions. These currently perennial streams will become intermittent and potentially more so for a longer period seasonally and may not be able to support all the life history stages of the aquatic and facultative species present. The quality and quantity of habitat may not be persist in the intermittent conditions of the streams to support those species established in the current conditions.

Low seasonal flows (velocity and depth) are subject to significant temperature increases and complete dewatering of portions of the streams and overall change in the habitat quality and availability. Changes in habitat quality and availability in the Jackson Creek watershed and impoundments and New York Ranch Gulch may result in changes in temperatures, species composition, interspecific interactions, species composition, create conditions that favor non-native plants and aquatic species, reduce available cover and breeding habitat available for fish and other aquatic species, decreased reproduction, decreased growth rates, and may result in increased predation on native species. The EIR states on page 4.2-31 "Aquatic wildlife, particularly fish such as rainbow and brown trout, would face an increased frequency of low flows or intermittent conditions in some reaches; however, *all aquatic species are expected to persist* in the absence of leakage as they have during the past when canal leakage has been reduced or dry water-year conditions prevailed." The absence of leakage to the streams has been a short term impact and isolated to sections of the canal dewatering for maintenance and power failures (EIR page 3-7). The conclusion that aquatic species will persist through a long-term loss of flow based on the resulting persistence of species through a short-term loss of flow is not supported with evidence. Dry-water years have also had short-term impacts for streams that have been augmented by canal leakage. The persistence of species through long-term loss of flow cannot be compared to flows in short-term dry-water years without leakage.

Information in Department files, for the Middle Fork of Jackson Creek in 1952, report "fish in very excellent condition." Notes in 1953 indicate "ditch repair by P.G. & E reduced seepage which was contributing to flow of this stream." These reduced flows precluded the Department from planting fish as the Department did not expect the planted fish to persist without canal leakage augmenting flows. Information for the South Fork of Jackson Creek for June 1950 indicates: "spawning areas present; four feet across with many ripples [riffles]; fished rather heavily and supports pressure; many pools on lower stretches." Decreased flows will result in fewer spawning areas and less suitable spawning areas, pool habitat, thereby decreasing the likelihood the fish populations can support heavy fishing pressures prevalent in Jackson Creek.

The conclusion that aquatic species may persist does not address the project impact to the species. Aquatic species may persist despite a significant loss of aquatic habitat and aquatic species in a watershed or aquatic species may be eliminated from reaches of streams and their range severely restricted and their numbers significantly reduced. The EIR analysis limited its focus to conclude if a species persisted there would be no significant impact.

In response to our comments regarding the trout fishery in the Amador Canal, the Final EIR states that the trout fishery in the canal is not viable without continued diversions of fish from the Mokelumne River and/or Lake Tabeau. This statement was not supported by data indicating that reproduction is not occurring in the canal. In other unlined canal systems in the Sierra Nevada foothills, trout spawning is known to take place, e.g. Angels-Utica project and Nevada Irrigation District canal systems (Utica Power Authority, 1997). The Amador Canal may function as a natural stream channel that supports trout reproduction. Potential fish spawning habitat may occur in the Amador Canal and the assumption that reproduction is not occurring in the canal must be supported. Mapping of the potential fish habitat in the Amador Canal would be necessary to support the conclusion that spawning is unlikely. Without this data, we must assume the presence of trout in the Amador Canal is potentially a viable fishery and an analysis of the impact of dewatering the canal must be conducted and mitigation measures proposed.

Installation of fish screens on conduits

The Department would like to examine the conduits for the canal and the proposed pipeline to determine whether fish screens are necessary. Screens at the Tiger Creek Afterbay and the conduits that pump water from Lake Tabeau into the Amador Canal may be necessary. The presence of fish in the canal suggests the diversion of water through the conduits is delivering fish into the canal. The diversion of fish into the conduit and the new pipeline without suitable habitat present to sustain them is a significant environmental impact that should be mitigated by the installation of a screen or screens. A mitigation plan satisfactory to the Department should be developed to implement any order to install a screen on a conduit to minimize impacts to the fishery.

Wetlands

Four wetland locations were acknowledged in the EIR that would be indirectly impacted by the canal dewatering. The EIR concluded the elimination of these areas does not result in exceeding the "Standards of Significance" as presented in the EIR. However, the Department of Fish and Game has a no-net-loss policy for wetlands. The quantity and quality of wetland habitat remaining in California has been significantly reduced; thus, maintenance and restoration are essential to meet the needs of the public for fish and wildlife resources and beneficial uses. The Water Agency should

develop mitigation measures to provide for no net loss of wetland habitat value and acreage including the following: loss of 1.17 acres of lacustrine habitat (open water in New-York Ranch Reservoir), loss of 1.25 acres of wetland habitat in the South Fork of Jackson Creek, loss of 0.12 acres of emergent wetland in New York Ranch Reservoir, impacts to 0.01 acres emergent wetland due to pipeline placement and construction, potential loss of lacustrine habitat, of emergent wetland at impoundments; of seeps, springs and riparian habitat not quantified in the EIR.

Dams

When the canal was constructed it was cut into slopes to follow the topography. It captures and transports overland flow and intercepts and captures natural stream flows. The EIR presented data representing flows in Jackson Creek and Sutter Creek. This data was calculated from hydrological modeling techniques (the particular models used were not identified) in Tables 4.1-4 and 4.1-5. In our analysis, we summarized the data in the tables and find an estimated 5 to 65 percent of the annual discharge flows in the sub-basins of the Jackson Creek watershed are intercepted by the canal. The term unimpaired in the following text means the watershed does not receive canal leakage. According to the numbers presented in the tables, an average 0.155 cfs (12 percent of the annual average) is intercepted per year for the unimpaired South Fork of Jackson Creek sub-basin, an average 0.58 cfs (32 percent of the yearly average) is intercepted in the unimpaired Middle Fork of Jackson Creek sub-basin. Overall, a total of 21 percent of the annual average unimpaired discharge in the Jackson Creek watershed (as presented in the EIR) is intercepted by the Amador Canal. The continued intercepted flow, an indirect result of this project, is potentially significant for this watershed. However, the EIR concludes on page 4.1-21 "In general, the Amador Canal intercepts a minor volume of water that would otherwise pass downslope." The Department believes the unmitigated intercepted flows remain a significant adverse impact to the Jackson Creek watershed.

The EIR concluded that the "natural drainage patterns now interrupted by the canal would be restored," however, there is no information provided on how this natural drainage pattern would be restored other than an statement on page 4.1-41 of the EIR "the canal waste gates would be opened to allow runoff from the watersheds upslope of the canal to continue downslope unimpaired." This statement was not supported with mitigation, implementation and monitoring measures. Simply dewatering the canal would not return the watershed's hydrology to its natural state. Furthermore, the EIR states "the canal channel *could* (italics added) be breached in some locations to facilitate the restoration of the natural drainage pattern." These statements were not followed with mitigation to ensure implementation for restoring the natural hydrology. Our site visit confirmed there were not waste gates on every stream that would allow runoff from the watersheds upslope to continue downslope unimpaired. This structure could be considered a dam according to Fish and Game Code

Section 5900, which defines a dam as any artificial obstruction. According to Fish and Game Code Section 5937, the owner of a dam must allow sufficient water at all times to pass-through a fishway, or in the absence of a fishway, allow sufficient water to pass over, around or through the dam, to keep in good condition any fish that may be planted or exist below the dam. The EIR estimated the volume of canal leakage contributing to surface waters downslope exceeds the volume of water intercepted by the Amador Canal from upslope sources resulting in a net enhancement of surface flows. The impacts of the intercepted flows were mitigated by the net enhancement of the surface flows from canal water leakage, however, without returning the natural hydrology, the impact of the intercepted flows is then unmitigated, as is the change in the current conditions.

New York Ranch Reservoir is expected to continue to impound runoff from the upper watershed. There was no discussion in the EIR whether water releases would be allowed to pass around or through the dam to keep fish in good condition below the dam.

The Water Agency should develop mitigation measures to ensure the return of streamflow into the stream channel below the canal.

Rescue of stranded fish

Fish and Game Code Section 6400 states it is unlawful to place, plant, or cause to be placed or planted, in any of the waters of this State, any live fish, any fresh or salt water animal, or aquatic plant, whether taken without or within the State, without first submitting it for inspection to, and securing the written permission of, the Department. The project proponent should prepare a mitigation plan to the satisfaction of the Department if fish are to be removed from the canal for planting elsewhere.

Mitigation and Monitoring

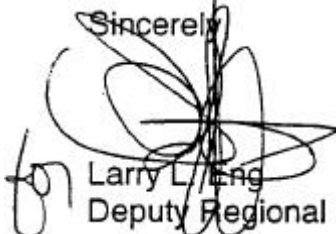
In order to comply with Public Resources Code Section 21081.6, a detailed monitoring program must be developed for all mitigation conditions. The monitoring program should include the following:

1. Specific criteria to measure the effectiveness of mitigation.
2. Annual monitoring for a minimum of five years.
3. Annual written monitoring reports submitted to the Department of Fish and Game Sacramento Valley Central Sierra Region.
4. Monitoring reports will include corrective recommendations that shall be implemented in order to ensure that mitigation efforts are successful.

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Conclusion

The Department must make a discretionary decision about the project regarding issuance of an LSAA, Fish and Game Code Section 1600 et. seq. The Department, in our role as a responsible agency, must make findings as to the adequacy of the CEQA document before issuing the LSAA and may, as stated above, require preparation of a subsequent document. The Department is available to meet with the Amador Water Agency to discuss ways to address the issues raised in this letter and meet the Department's objectives as a responsible agency.

Sincerely,

Larry L. Eng
Deputy Regional Manager

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