

Notice of Availability
Revised Section 4.1 of the Environmental Impact Report (EIR) for the
Amador Transmission Project (State Clearinghouse #2000022106)

Amador Water Agency (Agency) hereby provides notice that a revised water resources section (Chapter 4.1) of the environmental impact report (EIR) (SCH #2000022106) for the proposed Amador Transmission Project (Project) has been prepared and is available for public review and comment. To assist reviewers in understanding what text has been changed from Chapter 4.1 of the Draft EIR, the revisions are shown through strikeouts and highlighting.

On August 12, 2004, the Agency Board of Directors set aside its May 15, 2001 certification of the Final EIR for the Project and its approval of the Project pursuant to the Peremptory Writ of Mandate issued on August 10, 2004, by the Amador County Superior Court in *Protect The Historic Amador Waterways v. Amador Water Agency* (Amador County Superior Court Case No. 01CV1191). Revised Chapter 4.1 has been prepared to comply with the Peremptory Writ of Mandate which provides in pertinent part: "You shall take the actions necessary to bring the water resources section of the EIR (Chapter 4.1) into compliance with the California Environmental Quality Act (CEQA), as required by, and consistent with, the Court of Appeal's March 12, 2004 decision in this action (as amended on April 9, 2004), which is reported in the California Official Reports at 116 Cal.App. 4th 1099." In its opinion, the Court of Appeal stated: "We conclude the Agency abused its discretion because the EIR does not contain a required statement indicating the reasons why the Agency determined that the reduction in the surface flow of local streams would not be significant." The Court of Appeal, in its Order Modifying Opinion, dated April 9, 2004, further stated:

This conclusion does not mean the Agency is required to start the EIR process anew. Rather, the Agency need only correct the deficiency in the EIR that we have identified before considering recertification of the EIR. The form of that correction is a matter for the Agency to determine in the first instance. (See CEQA, § 21168.9, subd. (c) ["Nothing in this section authorizes a court to direct any public agency to exercise its discretion in any particular way"].) Likewise, whether the correction requires recirculation of the EIR, in whole or in part, is for the Agency to decide in the first instance in light of the legal standards governing recirculation of an EIR prior to certification. (See CEQA, § 21092.1; Guidelines, §15088.5; *Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112, 1129-1130.)

Because only Chapter 4.1 of the EIR has been revised, the Agency is just circulating it for public review and comment in accordance with CEQA Guidelines section 15088.5(c). Further, consistent with subsection (f)(2) of section 15088.5, the Agency requests that reviewers limit their comments to the revised Chapter 4.1. Subsection (f)(2) states in full:

When the EIR is revised only in part and the lead agency is recirculating only the revised chapters or portions of the EIR, the lead agency may request that reviewers limit their comments to the revised chapters or portions. The lead agency need only respond to (i) comments received during the initial circulation period that relate to chapters or portions of the

document that were not revised and recirculated, and (ii) comments received during the recirculation period that relate to the chapters or portions of the earlier EIR that were revised and recirculated. The lead agency's request that reviewers limit the scope of their comments shall be included either within the text of the revised EIR or by an attachment to the revised EIR.

The Agency is treating this notice as an attachment to the revised Chapter 4.1. Revised Chapter 4.1 is available either on-line at www.amadorwa.com or at the Amador Water Agency offices located at 12800 Ridge Road, Sutter Creek, California 95685-9630. Documents referenced in revised Chapter 4.1 are available for review at the Agency office.

Written comments on the revised Chapter 4.1 may be submitted during the period beginning Friday September 3, 2004, and ending on Monday October 18, 2004. All comments must be received by 5:00 p.m. on Monday October 18, 2004, at the Agency office or through e-mail transmission to the Agency at eircomments@amadorwa.com. Please address the written comments to:

Jim Abercrombie, General Manager
Amador Water Agency
12800 Ridge Road
Sutter Creek, CA 95685-9630

The Agency will prepare written responses to all written comments timely received, after which, at a noticed public meeting, the Agency Board of Directors will consider recertification of the EIR, as revised, and possible approval of the Project.