

Press Release

11 June 2014

For Immediate Release

Contact: Barbara Vlamis, AquAlliance: 530-895-9420; cell 530-519-7468
Bill Jennings, CSPA: 209-464-5067; cell 209-938-9053

Lawsuit Filed to Protect North State Farms, Fish and Communities

On 11 June 2014, AquAlliance and the California Sportfishing Protection Alliance (CSPA) filed a lawsuit in federal District Court against the U.S. Bureau of Reclamation USBR over its inadequate disclosure, avoidance of impacts, and mitigation of major water transfers from the Sacramento Valley through the Delta to the San Joaquin Valley. USBR proposes to transfer up to 175,226 acre-feet (AF) of Central Valley Project (CVP) surface water to San Luis Delta Mendota Water Authority (SLDMWA). As much as 116,383 AF of that water may be in the form of groundwater substitution. Coinciding with the USBR transfer, the State Water Project (SWP) and private parties are proposing to transfer another possible 305,907 AF or more of water. The lawsuit asks the court to declare that USBR's Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) was arbitrary and capricious, ignored relevant new information and failed to meet minimum requirements of the National Environmental Policy Act (NEPA).

Depleting already stressed aquifers so that special interests can sell and export their surface water to the San Joaquin Valley directly threatens the environment, human health and economic wellbeing of the communities, businesses, and farms of the Sacramento Valley. Exporting massive quantities of water during periods of negligible Delta outflow draws the low salinity zone into the central Delta and exposes endangered delta smelt to lethal temperatures and entrainment in Delta pumps. This is especially critical as Delta flow and water quality standards have been weakened six times in less than 90 days and plaintiffs have discovered that state and federal agencies are grossly overestimating actual Delta outflows. USBR refused to consider the new information and revise the EA and FONSI.

AquAlliance Executive Director Barbara Vlamis explained, "Selling surface water and pumping groundwater places an extraordinary strain on the groundwater basins and streams of the North State that are already taxed by the very dry conditions, past transfers, and local agricultural demand. For years, USBR has relied upon quick-&-dirty Environmental Assessments and Findings of No Significant Impact instead of the required and long-promised full Environmental Impact Statement that would fully examine the adverse impacts of water transfers on the area of origin and Delta. It's past time for USBR to comply with the law and factually analyze the enormous impacts caused by their water transfers to agricultural interests with junior water rights that chose to plant permanent crops in a desert."

CSPA Executive Director Bill Jennings observed, "Last year, excessive water exports and low outflow drew delta smelt from Suisun Bay into the central Delta where they were butchered by lethal water temperatures. This year, with population levels hovering at historic lows: excessive transfers and exports, relaxed flow standards, high temperatures and negligible outflows may catapult the species into the abyss of extinction. On top of these threats, we were astonished to

discover that the estimates of Delta outflow that state and federal agencies have reported and regulators have relied upon for years are wrong and significantly overestimate outflow in low flow conditions. Indeed, last month there was actually a minus 45 cfs net outflow to the Bay while DWR and USBR were reporting a plus 3805 cfs.”

The Net Delta Outflow Index (NDOI) used to assess compliance with required flow standards is based upon a formula of both actual and estimated data. Examination of tidally filtered outflow data from the U.S. Geological Survey’s state-of-the-art UVM flow meters on the Sacramento and San Joaquin Rivers and Three-mile and Dutch Sloughs reveals that actual Net Delta Outflow (NDO) in low flow conditions are considerably lower. These USGS sites capture all outflows from the Delta to the Bay. Incredibly, the state’s own evaluation of NDO with the NDOI, as reported on DWR’s Dayflow website and the *Dayflow 2013 Comments*, reveals that the NDOI significantly overestimates outflow in drier periods.

Any new water transfers will be in addition to the 1500 cfs of water exports already allowed by State Water Board emergency orders. The total amount of water transfers by the USBR, SWP and private parties is unknown. The State Water Board has been routinely approving virtually all transfer requests without environmental review.¹ This present transfer project is the fourth in a series of water transfers for which the USBR has issued a FONSI and refused to prepare an EIS. Other FONSI’s were issued in 2009, 2010-2011, 2012 and 2013. In 2010, USBR issued a notice of its intent to prepare an EIS for a long-term water transfer but, after three scoping meetings, never issued a draft EIS.

The failure of USBR to conduct a full environmental review means that there has never been a comprehensive analysis of the potential adverse impacts of water transfers on surface water, water quality, groundwater, fisheries, vegetation and wildlife, special status species, geology and soils, land use, air quality, climate change, cultural resources, noise, recreation, energy, visual resources, socioeconomics, and Indian trust assets, as well as environmental justice and cumulative impacts associated with water transfers.

AquAlliance and CSPA are represented by:

Tom Lippe, Law Offices of Thomas N. Lippe APC: 415-777-5604 x 1

Michael Lozeau of Lozeau/Drury LLP : 510.836.4200 ext 103

AquAlliance is a 501 (c) (3) non-profit public benefit corporation established to defend northern California waters and to challenge threats to the hydrologic health of the northern Sacramento River watershed to sustain family farms, communities, creeks and rivers, native flora and fauna, vernal pools and recreation.

www.aqualliance.net

The California Sportfishing Protection Alliance is a 501 (c)(3) non-profit public benefit conservation and research organization established in 1982 for the purpose of conserving, restoring and enhancing the state’s water quality, wildlife and fishery resources and their aquatic ecosystems and associated riparian habitats.

www.calsport.org

¹http://www.swrcb.ca.gov/waterrights/water_issues/programs/applications/transfers_tu_notices/index.shtml

Background

1) U.S. Bureau of Reclamation 2014 Water Transfer Program -

http://www.usbr.gov/mp/nepa/nepa_projdetails.cfm?Project_ID=16681

2) Past Water Transfers from the Sacramento Valley Through the Delta.

The table is based on data found in the Western Canal Water District Negative Declaration for a 2010 water transfer and more current information.

| Past Water Transfers from the Sacramento Valley Through the Delta in TAF Annually* | | | | | | | | | | | | | |
|--|------------|------------|------------|--------------|----------|----------|------------|-------------------|------------|------------|----------|------------|------------|
| Water Year Type ** | Dry | Dry | AN | BN | BN | Wet | Dry | Critical | Dry | BN | Wet | BN | Dry |
| Program | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 ² | 2009 | 2010 | 2011 | 2012 | 2013 |
| DWR Drought Water Bank/Dry Year Programs | 138 | 22 | 11 | 0.5 | 0 | 0 | 0 | 0 | 74 | 0 | 0 | 0 | 0 |
| Enviro Water Acct | 80 | 145 | 70 | 120 | 5 | 0 | 147 | 60 | 60 | 60 | 0 | 60 | 60 |
| Others (CVP, SWP, Yuba, inter alia) | 160 | 5 | 125 | 0 | 0 | 0 | 0 | 173 | 140 | 243 | 0 | 190 | 210 |
| Totals | 378 | 172 | 206 | 120.5 | 5 | 0 | 147 | 233 | 274 | 303 | 0 | 250 | 270 |

*Table reflects gross AF purchased prior to 20% Delta carriage loss (i.e., actual amounts pumped at Delta are 20% less)

** Based on DWR's measured unimpaired runoff (in million acre-feet)

Abbreviations: AN - Above normal year type and BN - Below normal year type (<http://cdec.water.ca.gov/cgi-progs/iodir/wsihist>)

² The Environmental Water Account ended in 2007 (Bay Delta Conservation Plan Draft EIS/EIR 2013). The figures that continue in this row are based on a long-term contract with the Yuba County Water Agency to sell water.