



NORTH
COAST
RIVERS
ALLIANCE

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Chuck Siek
Bureau of Reclamation
1243 N Street
Fresno, CA 93721

Comments On the Draft Environmental Assessment (DEA 13-026) for the 10 year 100,000 Acre Feet of Proposed Water Transfer/Exchange Program from the Arvin-Edison Water Storage District (AEWSD) to Metropolitan Water District (MWD) & Draft Finding of No Significant Impact (FONSI 13-026)

Dear Mr. Siek:

Thank you for the opportunity to comment on the proposed transfer of up to 100,000 acre feet of Central Valley Project water to Metropolitan Water District, the largest urban wholesale water supplier in the State Water Project.¹ The draft EA is not adequate and does not contain sufficient information to fully assess environmental impacts that should be avoided in order to

¹ http://www.usbr.gov/mp/nepa/documentShow.cfm?Doc_ID=15863

fully protect the environment. Reasonable alternatives which could reduce the environmental impacts of the project have not been considered. The information, data, analyses, and cumulative impacts should be included and an EIS completed for recirculation before a finding of no significant impact can be made.

Without analysis or data, the DEA determines there will be no impact to the environment, no effect to endangered species, and that there is full compliance with the Migratory Bird Treaty Act and the Fish and Wildlife Coordination Act. Relying on a 1998 – a fifteen 15 year old document--by the United States Fish and Wildlife Service² and the Bureau of Reclamation is the basis for the determination that there is no need for further consultation regarding critical habitat, impacts to threatened and endangered species, or a need to provide any data to support the conclusions in the document. Much has occurred since 1998 including new listings of endangered and threatened species and critical habitat affected by the proposed project. This new information, along with impacts from climate change, droughts, and increased exports of scarce water supplies has not been considered under the proposal to export water out of the basin. In addition, the required monitoring or information required under existing biological opinions in the water service areas impacted by the proposed decade long transfer is absent. USBR in the DEA also determines, without documentation, data or analysis, that there will be no impact to water quality or meeting the terms of D-1641.³

The DEA also relies upon a change of place of use [CPOU] issued for one year 2013⁴, to determine that ten more successive years of such a transfer will not have any cumulative impacts, any environmental impacts, nor will there be impact to any of the listed endangered species or the designated critical habitat or threatened species. Once again no data is provided. The documents rely upon the premise that ‘all the water to be exchanged is water that would have been consumptively used or stored in the absence of the exchanges.’ The project however, rests upon a fact that refutes this premise. Arvin Edison’s contracted intermittent water supply often cannot be stored and instead is released, thus benefiting fish and wildlife and natural stream flows. Under the proposed provisions of payment by MWD who would receive AEWS water prior to spill and at a later time, return a lesser amount (return 2 acre-feet for every 3 acre-feet regulated) to AEWS is further evidence that the water is in fact not consumptively used by AEWS and thus, the entire premise of the agreement between MWD and AEWS refutes the contention CVP water under contract with AEWS is consumptively used and thus there is no impact from exporting it out of the basin. Further, the impacts and cumulative impacts of recent changes to expand the boundaries of the membership of AEWS (July 2013), to include the Westside Mutual Water District member lands in Westlands Water District to the AEWS

² http://www.usbr.gov/mp/cvpia/3405a/docs/ltr_final_proposal_water_trans_04-16-98.pdf

³ D-1641 also states that Reclamation will provide compensation and habitat values that mitigate for those associated with the delivery of CVP water to lands previously outside the authorized place of use. Delivery of this CVP water will be to lands outside the authorized place of use. This mitigation requirement has yet to be met.

⁴ http://www.waterboards.ca.gov/waterrights/water_issues/programs/applications/transfers_tu_orders/docs/reclamation_order.pdf

http://www.waterboards.ca.gov/waterrights/water_issues/programs/applications/transfers_tu_orders/docs/arvin_edison_order_040312.pdf

service area and Westside Exchange Program are not disclosed nor analyzed.⁵ Further irrigating these toxic soils on the west side of the San Joaquin Valley is known to create life threatening impacts to migratory birds, wildlife and fish, magnifying up the food chain as these pollutants accumulate. The promise of “bucket for bucket” water transferred stretches credibility when no description of the bucket for bucket is provided, nor is there monitoring or reporting conditions provided so that third party or environmental impacts can be assessed.

The delivery of Central Valley Project water to one of the largest urban water users in California is premised on “efficiency.” Absent from this efficiency argument, however, are the required environmental data and analysis to document how this proposed project will not have third party impacts, will not impact fish and wildlife, and will protect endangered species and water quality. A full environmental impact is needed to ensure compliance with the National Environmental Policy Act and other federal laws. We submit by reference, comments provided Cross-Valley Contractors Interim Renewal Contracts EA-12-048 and Draft Finding of No Significant Impact Cross-Valley Contractors Interim Renewal Contracts FONSI-12-048.

The Bureau claims that Congressional directives under the Reclamation Reform Act of 1982, including the acreage limitations and full-cost provisions, do not apply because AEWS D has repaid its obligation to the American taxpayer for the Central Valley Project. Little documentation of this interpretation is provided. No mention is made of the required charges of \$25 an acre foot under the CVPIA transfer provisions⁶. Further no discussion of third party impacts is provided from such a transfer extended over a decade. It is understandable that MWD would desire the better water quality from the eastside of the Central Valley, or water from the Delta Estuary, rather than the polluted groundwater of the Kern Plateau that was part of their original 1997 and 2008 agreements. However, the impacts on the environment and surrounding communities of exporting these surface water supplies are not disclosed. Without evidence or data the Bureau proclaims there are no impacts from this sustained export of water out of the basin.

Relying on a one year permit sanction to change the place of use, the Bureau claims that all the water to be exchanged is water that would have been consumptively used or stored in the absence of the exchanges. This stretches credibility given that the very premise of the exchange is AEWS D’s intermittent water contract, the timing of available supplies, and inability to take delivery of the contract water when it is available, thus necessitating the transfer to MWD. Further the claim is *‘There will be no change in the amount of SWP or CVP water diverted at the Banks or Jones Pumping Plants. Therefore, there will be no change in flow or water quality*

⁵ http://www.usbr.gov/mp/nepa/documentShow.cfm?Doc_ID=14341 *The existing Exchange Program involves delivery of Arvin’s supplies to Westside member lands as exchange water, based on a 1 for 1 or “bucket for bucket” basis, up to 50,000 acre feet (af). Westside diverts and uses a portion of Arvin’s CVP water through a combination of existing turnouts. In exchange for Arvin’s supplies, Westside delivers up to 50,000 af on a variable, as needed and available basis a combination of Westside’s: SWP water supply, CVP Section 215 water, Kern River water, and/or City of Bakersfield Surplus Kern River water. The Exchange Program began in 2011 and is in effect through February 29, 2016 or 50,000 af, whichever comes first.*

⁶ *ibid.* USFWS 1998 agreement @ pg 27.

conditions in the Delta.’ This statement is inconsistent with the premise of the project, which is to recapture San Joaquin River Restoration flows for diversion and export from the San Francisco Bay Sacramento San Joaquin Delta Estuary. Further, it is well documented that approximately 50% of the flow into the estuary is exported out of the San Francisco Bay Sacramento San Joaquin Delta Estuary, causing significant impacts to fish, wildlife and water quality. There is no data to support the conclusion that exporting San Joaquin River Restoration flows will not have estuary flow or water quality impacts. It is precisely this shift in the timing, deliveries and amounts of water exported from the estuary that does impact fish, wildlife and water quality.

The Draft EA at page 8 states, “*Reclamation proposes to approve AEWS’s request to exchange/transfer a portion of its CVP water supply for MWD’s SWP supply (including previously banked supplies). The delivery of up to 100,000 AF per year from AEWS to MWD could include the following CVP water types:*

- *Class 1;*
- *Class 2;*
- *San Joaquin River Restoration Program (SJRRP) Recovered Water Account Article 16(b);*
- *Recaptured SJRRP Interim Flows (including those supplies made available through transfers/exchanges as analyzed in the 2010, 2011 and 2012 EA for recirculation of recaptured interim flows as well as subsequent/future SJRRP environmental documentation);*
- *Section 215 water supplies, to the extent Section 215 water is declared by Reclamation and is available to AEWS.*”

Relying on three years of serial one year transfers and the associated environmental assessments is insufficient to fully determine the impacts from the proposed decade long annual transfer of up to 100,000 acre feet of federally subsidized water supplies from the federal Central Valley Project to the state water project contractor, Metropolitan Water District of Southern California. The impacts to the surrounding communities, the environment, source water supplies and Indian Water Rights have not been addressed or documented.

The failure to conduct an adequate NEPA review imposes high ecological risks on a water system in the middle of extreme drought and where community wells are being drained, rivers are dried up, and fish and wildlife stressed to extinction due to water diversions. Without greater transparency regarding these risks there is insufficient information to determine there will not be significant environmental impact.

The draft EIS does not adequately assess the potentially significant environmental impacts of the project. Given the project is suppose to account for water “bucket for bucket”, the failure of the document to include any history or data regarding the previous three years of “temporary” sales, exchanges or transfers leaves decision makers and the public in the dark. There are reasonably available alternatives that have not been considered and should be analyzed in order to reduce the potentially significant environmental impacts. Absent from the document is any

assessment of the cumulative impacts of the project including third party impacts and impacts to fish, wildlife and water quality. The document needs to be withdrawn. A full EIS is needed.

Thank you for the opportunity to comment. Please add our names to USBR's electronic notification lists for environmental documents regarding the Central Valley Project water supplies or contracts.



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