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10.652.01

January 21, 2020

via email

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tbirmingham@wwd.ca.gov
Westlands Water District
3130 N. Fresno Street,
Fresno, CA 93703

Re: Improper Use of CEQA Exemptions for Conversion Contracts

Mr. Guterrez, Mr. Birmingham, and Members of the Board:

On behalf of the North Coast Rivers Alliance, Winnemem Wintu Tribe, California Sportfishing Protection Alliance, Institute for Fisheries Resources, Pacific Coast Federation of Fishermen’s Associations, and San Francisco Crab Boat Owners Association we submit the following objection to the use of an exemption from the California Environmental Quality Act, Public Resources Code section 21000 et seq. (“CEQA”) for the approval of an authorization to execute contracts between Westlands Water District, Distribution District 1, and Distribution District 2 (collectively, “Westlands Water District”), and the United States Bureau of Reclamation (the “Bureau”). The Converted Contracts materially alter the manner in which landowners within Westlands’ service district may acquire and apply irrigation water received from the Central Valley Project (“CVP”), as they remove the acreage limitation and full-cost pricing requirements that would otherwise apply. These changes make the use of either the existing facilities or ongoing projects exemptions unlawful, as individual landowners within the service area will be permitted to apply CVP water to more land at lower cost. This change enables these users to increase their dependence upon CVP deliveries, and thereby induces additional demand for water. *North Coast Rivers Alliance v. Westlands Water District* (2014) 227 Cal.App.4th 832 does not apply to these contracts, due to these material changes. The environmental impacts of these changes must be studied in a CEQA document.

Westlands Water District – and Distribution Districts 1 and 2 – divert CVP water at excessive volumes that exacerbate the decline of California’s historic salmon runs and threaten the continued survival of Delta and longfin smelt. Their use of this CVP water on contaminated soil in Westlands Water District’s service areas causes selenium and other pollutants to mobilize, leading to unlawful discharges from the San Luis Drain into Mud Slough, the San Joaquin River, and ultimately the Delta. All of these impacts must be discussed and analyzed in a CEQA-

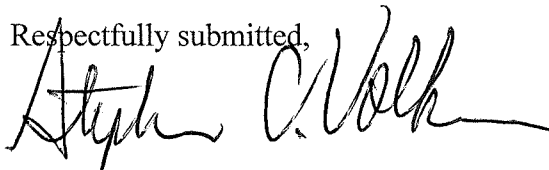
compliant document.

In addition, because the complete terms of the Converted Contracts have not been disclosed, public comment on the Converted Contracts has been improperly impeded and subverted. The public has not been informed, for example, about price terms of the contracts, including the existing capital obligations that will need to be repaid, and the rates and charges that will be applicable upon execution.

Westlands Water District has delegated the further negotiation and approval of material terms of the contracts to its General Counsel, General Manager, and President. As these contracts are subject to further modification after additional negotiation with the Bureau, the proposed resolutions do not commit Westlands to a definite course of action. Preparation and submission of any associated Notices of Exemption would be materially incomplete, defective, and premature. *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 962-965 (water district's vote to delegate future negotiation and execution of a contract to its Director is not sufficient to trigger CEQA's limitations period).

For these reasons, Westlands Water District must undertake full environmental review under CEQA. Once that review is complete, then Westlands Water District must place these items on the agenda with sufficient information for the public to meaningfully comment on the contract terms.

Respectfully submitted,



Stephan C. Volker
Attorney for North Coast Rivers Alliance,
Winnemem Wintu Tribe, California Sportfishing
Protection Alliance, Institute for Fisheries
Resources, Pacific Coast Federation of Fishermen's
Associations, and San Francisco Crab Boat Owners
Association