CA Save Our Streams Council

June 15, 2020

Mr. David Vang
Resources Engineer
Westlands Water District
3130 N. Fresno Street P.O. Box 6056,
Fresno, California 93703-6056
Email: dvang@wwd.ca.gov.

Comments on the Draft Initial Study/Negative Declaration for Westlands Water District Warren Act Contract for Groundwater Pump In

Dear Mr. Vang:

CEQA compels process. *It is a meticulous process designed to ensure that the environment is protected.*[1] We find this initial study incomplete with regard to environmental impacts and lacking sufficient data to determine compliance with the provisions of State of California water quality laws under Porter Cologne and the federal Clean Water Act, the California Endangered Species Act (CESA) and the California Environmental Policy Act (CEQA). Westlands Water District (Westlands), a state agency with a singular focus of providing irrigation water, is not the appropriate lead agency for such a complex project impacting a broad geographical area. The inadequate Initial Study and Negative Declaration (IS/ND) are the latest examples of the failure of Westlands to provide sufficient information to the public and impacted downstream beneficial water users. As stated in previous comments, the Department of Water Resources should be the lead agency for such a geographically complex project that impacts multiple counties and jurisdictions.

There is substantial evidence that this pump-in project has caused and if permitted again, will continue to cause, water pollution, land subsidence, increased water supply costs to others, and damage to the California Aqueduct, which serves millions of people. The initial study fails to provide a complete project description and omits monitoring requirements (sampling frequency, chemical analyses, etc.) and data on water quality and subsidence damages. The project as proposed does not support a "fair argument" that this project does not have significant environmental impacts. A full Environmental Impact Report (EIR) is required so that the environmental impacts, and costs and damage to downstream beneficial uses can be adequately analyzed and described to the public and decision makers.

[1] Planning and Conservation League v. Department of Water Resources (2000) 83 Cal.App.4th 892, 911.

Our organizations provide these comments on the Westlands Groundwater Pumping and Conveyance Project (Pump-in Project). In accordance with the California Environmental Quality Act (CEQA), Westlands, made a draft Initial Study/Negative Declaration (IS/ND) available for a 30-day public comment period closing on June 19, 2020, State Clearinghouse Number 2020050434.[2] Several of the undersigned organizations have previously submitted comments on this project: 1) Scoping Comments for Westlands Water District Proposed "Conveyance of Nonproject Groundwater from the Canal side project using the California Aqueduct" dated March 2, 2010, and 2**)** Comments to the US Bureau of Reclamation (Reclamation) on the Draft Environmental Assessment Westlands Water District Groundwater Warren Act Contract EA-15-001 & FONSI-15-001, dated March 26, 2015. Our previous comments are incorporated here by reference.[3] The following comments supplement previous comments with more detail on key issues.

Project Summary

Under the Pump-in Project, Reclamation would enter into a five-year Warren Act Contract[4] (for the years 2020-2025) to allow Westlands to pump in up to 30,000 acre-feet per year (AF/y) (and up to 150,000 AF over the five-year life of the project) of potentially highly contaminated non-Central Valley Project (CVP) groundwater into the California Aqueduct-San Luis Canal (SLC). Such pump-in would occur in years in which Westland's CVP allocation is 20% or less. The period of introduction would be between April 1 and August 31 of a given year. However, if it is not possible to begin conveyance by April 1, 2020, the conveyance period for 2020 would be shifted by three months, to between July 1 and December 30. All subsequent years would use the April 1 to August 31 window. According to Westlands' prepared documents the proposed Pump-in Project would involve four main components: groundwater pumping, water conveyance, ground subsidence monitoring, and water quality monitoring. At the heart of the CEQA compliance process is an accurate description of the project. The project fails to provide an accurate description. Many of the key elements of this project are not defined, omitted or not provided to the public for review.

Water Quality Monitoring Plan is not provided in IS/ND.

The IS/ND does not include requirements of a Water Quality Monitoring Plan which would be essential to fully assess the environmental impacts of the project. The Water Quality Monitoring Plan must identify sampling locations, sampling frequencies, applicable water quality standards, analytical methods,

---

[2] See: https://ceqanet.opr.ca.gov/2020050434/2

[3] http://calsport.org/news/wp-content/uploads/Conservation-Gr-04-19-2018-Cmt-Ltr-Delta-Mendota-Canal-Groundwater-Pump-in-DEA-18-007-and-FON....pdf

http://calsport.org/news/wp-content/uploads/Conservation-Gr-Cmt-Ltr-3-26-15-WWD-30-K-Groundwater-Discharge-Warren-Act-Contract-EA-15-001-CMTS-Dra....pdf

http://calsport.org/news/wp-content/uploads/Conservation-Gr-FinalScopingCmts-03-02-2010-100K-Pump-in-Cal-Aqueduct.pdf

http://calsport.org/news/wp-content/uploads/Environmental-Advocate-Cmts-WWD-SLC-Pump-in-Monitoring-2018-Cal-Aqueduct....pdf

[4] The Warren Act (Act of February 21, 1911; Chapter 141, 36 Stat. 925) authorizes USBR to enter into contracts to impound, store, or convey non-CVP water in federal facilities, when excess capacity is available. Warren Act Contracts are issued by Reclamation to allow movement of non-federal water through federal facilities.

detection limits and action thresholds. The IS/ND notes on page 9 footnote 6 that the 2020 Water Quality Plan is: "*…currently being prepared and may be subject to change prior to publication and adoption of the final plan. The Project will be subject to the final water quality standards and requirements of the plan once adopted*" and on page 50: "*The Water Quality Monitoring Plan is being developed to establish the monitoring and reporting protocol for participating wells under the proposed Project, and establish thresholds of exceedance for certain constituents of concern, including TDS, metals, organic chemicals and other potential pollutants. The Water Quality Monitoring Plan would require regular testing of water conditions to ensure that the quality of CVP water is suitable for downstream users. The Water Quality Monitoring Plan requires each well to be tested weekly during the first four weeks of pumping for primary constituents, then monthly while actively pumping into the SLC to confirm that the water quality is consistent, predictable, and reliable*."

The undersigned attempted to obtain the water quality monitoring plan, the enforcement standards, and the well monitoring data for each well head, each discharge pipe and the quantities and the times of discharge for the current project and from previous discharges for 2008 and from 2014 to 2016.[5] In a response to this Public Records Request, Westlands stated on June 5, 2020 that they did not have any responsive records. The proposed Pump-In Project cannot be evaluated without disclosure to the public of the IS/ND referenced Water Quality Monitoring Plan with time for public comment and review.

Although the Water Quality Monitoring Plan is not provided, on page 15 of the IS/ND it is noted that, "*To confirm that the groundwater from the participating wells meets the Water Quality Monitoring Plan, which is based off the applicable Title 22 California Drinking Water Standards, the Project participants' groundwater would be tested before the water is transferred via the SLC (see Appendix A for a complete list of water quality standards). No drainage water is permitted under this program.*" We discuss below why the Title 22 Drinking Water standard for selenium is far from protective of fish and wildlife resources that use water from the aqueduct.

It is impossible to review the IS/ND without the key information in the Water Quality Monitoring Program. For example, Appendix A of the IS/ND includes a table of water quality standards, but without the Water Quality Monitoring Plan, it is unclear whether these standards apply to groundwater at the wellhead, or to water in the California Aqueduct. The IS/ND should be withdrawn and replaced with a full EIR that includes the Water Quality Monitoring Plan and its rationale based on analysis of existing data. Without the Water Quality Monitoring Plan and a full EIR the public is unable to determine if reasonable alternatives which could reduce the environmental impacts of the project have been considered.

Pump-In Project Likely to Harm State Fish and Wildlife Designated Beneficial Uses Associated with the California Aqueduct.

The groundwater contributions from the Pump-in Project are conveyed south through the California Aqueduct and stored in four reservoirs (Pyramid Lake, Castiac Lake, Silverwood Lake, and Lake Perris). The aqueduct and these four reservoirs are regulated under four Regional Water Boards jurisdictions.

[5] See Pacific Advocates emails on behalf of the undersigned to Russ Freeman 5-19-2020 and 6-5-2020: Subject Pump-In Notice and Initial Study Missing Documentation and email to Jose Gutierrez and Russ Freeman 6-5-2020 Failure to Provide Documents Re Pump-In Notice and Initial Study Missing Documentation, that requested the IS/ND referenced monitoring plan, enforcement standards and previous pump-in data for 2008 and 2014-2016. http://calsport.org/news/wp-content/uploads/PRA-Correspondence-Re-WWD-Pumpin-Cal-Aqueduct-Project-Monitoring-Plan-May-2020.pdf

Designated fish and wildlife beneficial uses of the Aqueduct and downstream reservoirs are listed in Table 1.

The Central Valley Regional Water Quality Control Board (CV Regional Board) does not include fish (WARM) as a beneficial use for the aqueduct. Yet, the Department of Water Resources promotes fishing along the aqueduct and identifies five locations within or near Westlands (Fairfax, Three Rocks, Huron, Avenal Cutoff, and Kettleman City sites).[6] Further, the CV Regional Board includes WARM beneficial use designation for the Delta Mendota Canal,[7] so we can only surmise that the omission of a WARM beneficial use designation for the California Aqueduct is an oversight. Nonetheless, the Pump-in Project should be protective of downstream beneficial uses of the water from the California aqueduct and these impacts need to be addressed in the a full EIR that would replace the deficient IS/ND. Existing data simply does not support the adoption of a negative declaration for environmental impacts. Due to the high percentage of volumes represented by the Westlands' pump-ins during certain time periods, especially drought conditions, humans who fish the California Aqueduct are likely to be periodically exposed to much higher contaminants than the long-term average. In addition, there will be higher contaminant levels in fish than monitored in canal water due to accumulation in fish tissue. This exposure, warnings, and monitoring are not disclosed, especially to low income communities in the surrounding areas, and there is no mention of fish tissue monitoring.

Table 1. Fish and Wildlife Beneficial Uses Associated with CA Aqueduct south of Pump-in Project

Waterbody Name	WARM	COLD	SPWN	WILD	RARE
California Aqueduct[8]				E	
Castiac Lake[9]	E	I	E	E	E
Pyramid Lake[5]	E	E		E	E
Silverwood Lake[10]	E		E	E	
Lake Perris[11]	E	E		E	E

E: Existing beneficial use.
I: Intermittent beneficial use.
WARM: Warm Freshwater Habitat - Uses of water that support warm water ecosystems including but not limited to, preservation or enhancement of aquatic habitats, vegetation, fish, or wildlife, including invertebrates.
COLD: Cold Freshwater Habitat - Uses of water that support cold water ecosystems including, but not

[6] See: https://water.ca.gov/LegacyFiles/pubs/swp/fishing_along_the_swp/fishingswpeng.pdf

[7] See: https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_201805.pdf

[8] See: https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_201805.pdf

[9] See Beneficial Use Designations of Inland Surface Waters, Los Angeles Regional Water Board: https://www.waterboards.ca.gov/losangeles/water_issues/programs/basin_plan/2020/Chapter_2/Chapter_2_Table_2-1/Chapter_2_-_Table_2-1.pdf

[10] See: https://www.waterboards.ca.gov/lahontan/water_issues/programs/basin_plan/docs/ch2_bu.pdf

[11] See: https://www.waterboards.ca.gov/santaana/water_issues/programs/basin_plan/docs/2019/New/Chapter_3_June_2019.pdf

limited to, preservation or enhancement of aquatic habitats, vegetation, fish, or wildlife, including invertebrates.
SPWN: Spawning, Reproduction, and/or Early Development - Uses of water that support high quality aquatic habitats suitable for reproduction and early development of fish.
WILD: Wildlife Habitat - Uses of water that support terrestrial ecosystems including, but not limited to, preservation and enhancement of terrestrial habitats, vegetation, wildlife (e.g., mammals, birds, reptiles, amphibians, invertebrates), or wildlife water and food sources.
RARE: Endangered Species - Uses of water that support habitats necessary, at least in part, for the survival and successful maintenance of plant or animal species established under state or federal law as rare, threatened, or endangered.

Water quality standards for Selenium in IS/ND are not Protective of Fish and Wildlife Beneficial Uses.
On page 32 under "item d", the IS/ND concludes that the proposed project would have less than significant effect on biological resources, but acknowledges that groundwater from the Pump-in Project will comingle with refuge water supplies: "*Both Mendota Wildlife Area and Kern National Wildlife Refuge water supplies may mix with groundwater introduced as a result of the proposed Project, and this would occur partly during times of the year when these refuges would receive water supplies. However, the selenium levels are expected to remain well below the threshold for an adverse effect on wildlife, which is 2 parts per billion as measured in the water column (USBR and San Luis & Delta-Mendota Water Authority 2009 and references therein). Water introduced under the Project would be monitored and managed to ensure the quality of water does not exceed requirements of the Water Quality Monitoring Plan, which establishes limits on the quality of water for selenium to 2 micrograms per liter (equivalent to 2 parts per billion).*" Again, without the Water Quality Monitoring Plan, it is unclear if the 2 parts per billion (2 µg /L) selenium requirement applies to groundwater quality at the wellhead or in the aqueduct and what the sampling frequency would be to ensure compliance.

Moreover, on page 32 under "item f" the IS/ND concludes that "*Because discharged water under the Project would be subject to rigorous monitoring and testing to meet Title 22 water quality standards, salinity levels of the water supplies of the Mendota Wildlife Area or Kern National Wildlife Refuge would also be protected. Therefore, no impacts would occur*." The Title 22 selenium objective of 50 µg /L and the 20 µg /L maximum contaminant level for selenium, together with a detection limit of 50 µg /L specified in Appendix A of the IS/ND are not protective of fish and wildlife resources that use water from the Aqueduct, which require levels less than 2 µg /L. The undisclosed "monitoring and testing to meet Title 22 water quality standards" clearly are not protective of endangered species, migratory birds using the Pacific Flyway and other fish and wildlife that rely upon waters from the San Luis Canal/California Aqueduct.

On July 13, 2016 the Environmental Protection Agency (EPA) released a Final Updated Clean Water Act (CWA) section 304(a) recommended national chronic aquatic life criterion for the pollutant selenium in fresh water.[12] The final criterion supersedes EPA's 1999 CWA section 304(a) recommended national acute and chronic aquatic life criteria for selenium. The 2016 recommended criterion reflects the latest scientific information, which indicates that selenium toxicity to aquatic life is primarily based on organisms consuming selenium-contaminated food rather than direct exposure to selenium dissolved in water. The federal register notice identified revised chronic selenium criteria in water for lentic waters (e.g., meaning of, relating to, or living in still waters, such as lakes, ponds, or swamps) and lotic waters

[12] See: https://www.federalregister.gov/documents/2016/07/13/2016-16585/recommended-aquatic-life-ambient-water-quality-criterion-for-selenium-in-freshwater

(e.g., rivers and streams). EPA's revised chronic selenium criterion for lentic waters is 1.5 µg /L on a monthly basis, and this is the criterion that should be applied to water in the aqueduct to protect fish and wildlife beneficial uses.

As noted in the IS/ND, both Mendota Wildlife Area and Kern National Wildlife Refuge water supplies may mix with groundwater introduced as a result of the proposed Pump-in Project, as well as, downstream State Water Project reservoirs. Rare species that could be impacted by selenium from Westlands' contaminated groundwater discharges from the Pump-in Project include the federally listed Buena Vista Lake shrew (endangered), federally listed giant garter snake (threatened), and federally protected bald eagle (USFWS 2017).

These complex issues related to impacts on fish and wildlife beneficial uses require a full analysis of the proposed project and potential alternatives and this should be done as part of an EIR. Consultation by the California Department of Fish and Wildlife and the USFWS are necessary.

Detection Limit for Selenium in Appendix A is Incorrect and Inconsistent with the 2017 Water Quality Monitoring Plan for the SLC.

The selenium Detection Limit for Reporting (DLR) in Appendix A is in error. The DLR for selenium from Title 22 drinking water standards should be 0.005 mg/L.[13] The IS/ND has the DLR for selenium in Appendix A incorrectly as 0.05 mg/L. More important, however, for protection of fish and wildlife beneficial uses, the plan should incorporate a DLR consistent with 2017 SLC Water Quality Monitoring Plan which listed in Table 5 a DLR of 0.0004 mg/L (0.4 µg/L).[14]

Water Quality Data from Previous Pump-ins is not Provided.

Data on groundwater quality from participating wells is not provided in the IS/ND. The only groundwater data from individual wells for a Westlands previous pump-in that was available on the web was collected by the California Department of Water Resources in 2008.[15] That 2008 data highlights the significant variability of selenium in well water from the Westlands pump-ins and many of the samples reported were highly elevated in selenium. Reported selenium concentrations ranged from below detection (<1 µg/L dissolved selenium) up to 38 µg/L dissolved selenium. Forty six of the 68 samples had dissolved selenium concentrations equal to or greater than 2 µg/L. Seventeen samples had dissolved selenium concentrations greater than 5 µg/L. In addition, 4 samples were reported to be >0.01 mg/L arsenic, an MCL threshold identified by DWR, and 8 samples contained >1100 mg/L total dissolved solids, an MCL threshold identified by DWR in the Agreement between the Department of Water Resources, of the State of California, and Westlands Water District for Introduction and Conveyance of Local Groundwater in the California Aqueduct, SWPAO #08052.[16]

---

[13] See: https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/documents/mclreview/mcls_dlrs_phgs.xls

[14] The 2017 SLC Water Quality Monitoring Plan was included as Appendix B to the Final EA on the Westlands Water District 5-year Warren Act Contract for Kings River Flows in the San Luis Canal. See: https://www.usbr.gov/mp/nepa/includes/documentShow.php?Doc_ID=29590

[15] Select WWD 2008 Pump Ins at: http://wdl.water.ca.gov/waterdatalibrary/waterquality/station_county/index_prj.cfm

[16] The Agreement between the Department of Water Resources and Westlands Water District is included as an attachment to the comment letter from the State Water Contractors to the Final EA on the Westlands Water District

Reclamation's San Luis Canal Non-Project Water Pump-in Program Water Quality Monitoring Plan from 2017 required that "*All flow and water quality data collected by Westlands will be presented each month to Reclamation and DWR via e-mail. Reclamation will review the data to identify changes in the quality of water in the canal and in individual wells, and potential changes in the local aquifer that could lead to overdraft or subsidence. Reclamation in consultation with DWR, will direct WWD on the continuation of pumping of groundwater into the San Luis Canal.*"[17] Inexplicably, none of this data is presented in the IS/ND.

Water quality data on the previous performance of the Pump-in Project is essential information that is missing from the IS/ND. It is important to estimate contaminant loading in the California aqueduct, to ensure that discharges do not harm downstream beneficial uses, and to determine the feasibility of continuing the Pump-in Program. It is impossible to review the IS/ND without the water quality data from the previous Westlands groundwater pump-ins and an evaluation of its implications for the proposed project.

The IS/ND should be withdrawn and replaced with an EIR that includes all of this critical information and related analysis for public comment review.

Monthly Monitoring of Aqueduct Water Quality near Kettleman City is Insufficient to Assess Environmental Impacts of Pump-in Project.

The California Department of Water Resources (DWR) conducts monthly monitoring of the California Aqueduct and has documented occurrences of elevated levels of concern for selenium at Check 21 near Kettleman City (station number KA017226), especially during times when surface water flows have been restricted in the Aqueduct and groundwater from Westlands is being pumped into the Aqueduct.[18] As denoted in Figure 1, monthly water quality samples at Check 21 have exceeded the US EPA's July 2016 Final Updated CWA section 304(a) recommended national chronic aquatic life criterion for the pollutant selenium in fresh water 12 times between January 2012 and January 2020. These proposed objectives include a lentic water quality objective of 1.5 µg/L[19], which would be the applicable selenium objective for Kern National Wildlife Refuge and other wetlands and reservoirs that are fed by water from the Aqueduct. Further, the once-a-month water quality sampling is insufficient establish a monthly mean water quality calculation, to capture contaminant spikes that accumulate downstream, or to assess potential bioaccumulation in the food chain. Refuge water delivered to the Kern National Wildlife Refuge is diverted from the California Aqueduct in Kern County near Check 29, downstream of where groundwater from the Pump-in Project is pumped into the aqueduct. Inexplicably, DWR stopped collecting water quality data from Check 29 after November 2016.[20]

Groundwater Warren Act Contract, EA-15-001. See:
https://www.usbr.gov/mp/nepa/includes/documentShow.php?Doc_ID=21984

[17] See section on Data Compilation and Review in Appendix B:
https://www.usbr.gov/mp/nepa/includes/documentShow.php?Doc_ID=29590

[18] Water quality data for the California Aqueduct at Check 21 near Kettleman City is available here:
http://wdl.water.ca.gov/waterdatalibrary/waterquality/index.cfm

[19] See; https://www.federalregister.gov/documents/2016/07/13/2016-16585/recommended-aquatic-life-ambient-water-quality-criterion-for-selenium-in-freshwater

[20] Selenium & Arsenic concentrations in the California Aqueduct at Check 29, downstream of where groundwater

Elevated selenium in the Aqueduct is typically associated with drier water years when a larger proportion of total volume in the Aqueduct is comprised of groundwater inputs. Groundwater inputs entering into the Aqueduct (from various sources including Westlands) were 46 percent of the total volume entering the aqueduct in 2014[21], 44 percent in 2015[22], and 8.3 percent in 2016[23].

See Figure 1 on the following page:

---

has been pumped into the canal increased markedly in 2015 and in the case of Arsenic were approaching the Maximum Contaminant Level for drinking water of 0.010 mg/L.
See: www.water.ca.gov/waterdatalibrary/waterquality/station_group/index.cfm

[21] See page 86 in: https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/State-Water-Project/Management/Bulletin-132/Bulletin-132/Files/Bulletin-132-15-r.pdf

[22] See page 84 in: : https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/State-Water-Project/Management/Bulletin-132/Bulletin-132/Files/Bulletin-132-16-r.pdf

[23] See page 94 in: https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/State-Water-Project/Management/Bulletin-132/Bulletin-132/Files/Bulletin-132-17-r.pdf

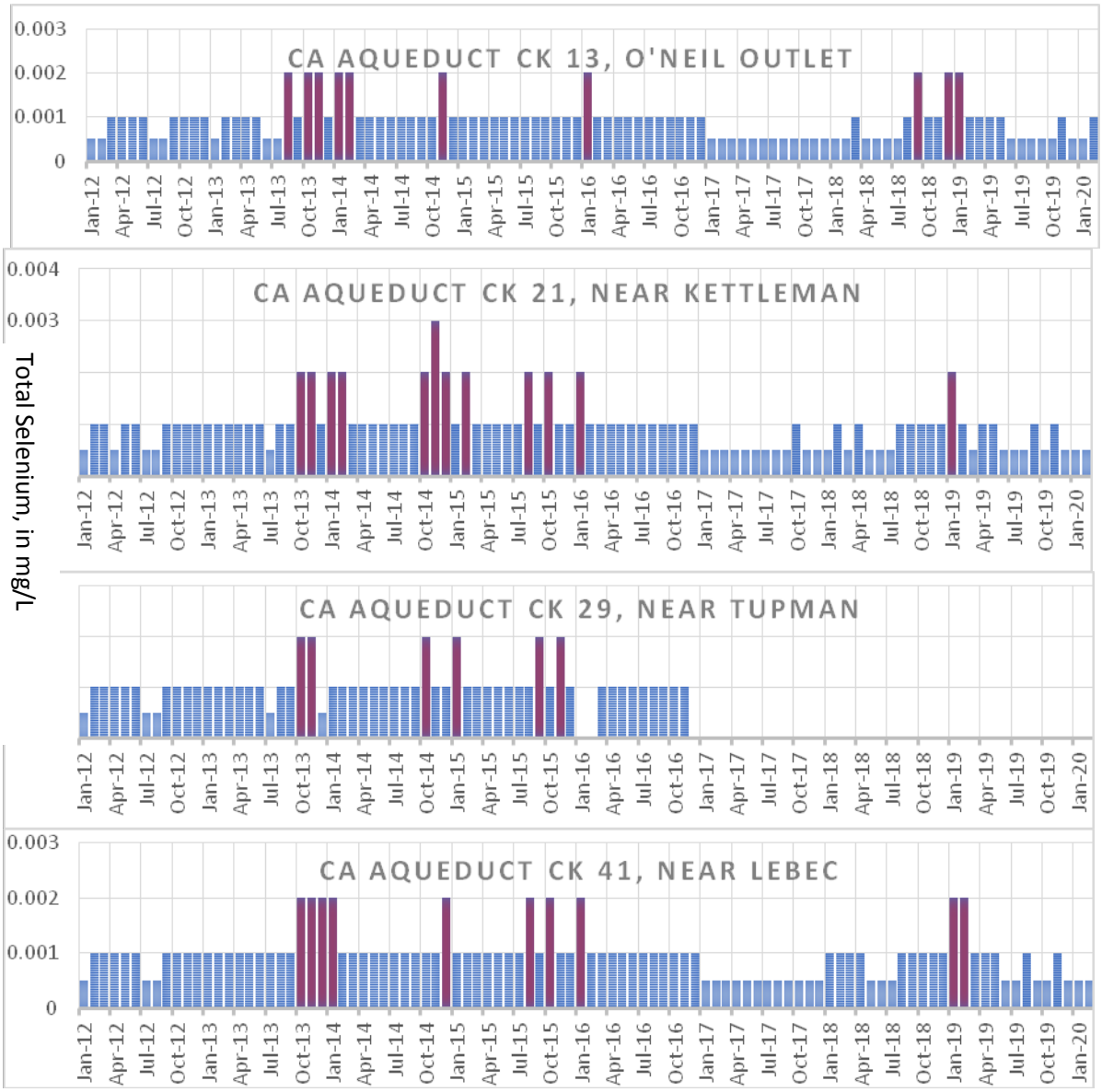


FIGURE 1. – Total selenium concentrations in water samples from the California Aqueduct. Light-shaded bars at 0.0005 mg/L are non-detections, dark blue bars are detections at 0.001 mg/L, and red bars are samples that equaled or exceeded 0.002 mg/L, and exceeded the lentic water-quality objective for selenium of 0.0015 mg/L.

Warren Act Contract Not Included in IS/ND.
The proposed Westlands 5-year Warren Act Contract (Contract) is not included with the IS/ND, so informed decision making and analysis is precluded. A copy of the current Warren Act Contract is available on USBR's website and the term of this contract is through June 30, 2022.[24] Will there be changes to the contract after 2022? Failure to provide the contract and terms renders the propose project by definition incomplete. Public review and transparency require copy of the Contract for the time period being considered and needs to be included as an attachment to the to a Full EIR that replaces the deficient IS/ND .

Subsidence Monitoring and Requirements Are Absent.
As denoted on page 15 of the IS/ND, there are "*…two subsidence prone areas located within the District along the SLC…These two areas experienced increased rates of subsidence, which may threaten lands and infrastructure within their vicinity, namely the SLC.*" The IS/ND proposes within these areas, to subject well pumping to "*more restrictive minimum thresholds to protect critical head levels, and extraction from the Lower Aquifer (deep aquifer below the Corcoran Clay layer) would be limited in all years to minimize or avoid subsidence in susceptible lower aquifers.*" The proposed *restrictive minimum thresholds* are not provided nor data and information to support the conclusions.

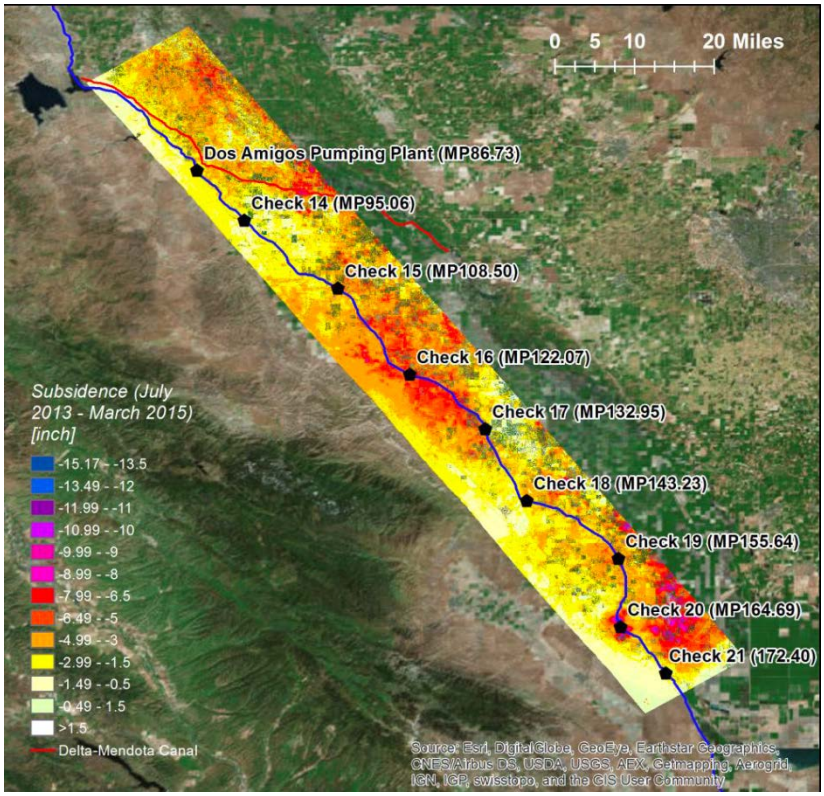
Increases in subsidence, impacts and costs to the California Aqueduct, and long-term cumulative impacts are significant. USGS recently reported, "*Extensive groundwater pumping from San Joaquin Valley aquifers is increasing the rate of land subsidence, or sinking. This large-scale and rapid subsidence has the potential to cause serious damage to the water delivery infrastructure that brings water from the north of the valley to the south where it helps feed thirsty cropland and cities. According to a new report by the U.S. Geological Survey the subsidence is occurring in such a way that there may be significant operational and structural challenges that need to be overcome to ensure reliable water delivery.*"[25]

Further, DWR has been funding and working with NASA's Jet Propulsion Laboratory (JPL) to monitor subsidence in the Valley since July 2013. It uses interferometric synthetic aperture radar (InSAR) from satellites and aircraft to record the distance between the radar and the ground surface. This work has identified significant areas of subsidence in Westlands as shown in the figure below taken from DWR's 2017 California Aqueduct Subsidence Study Report.[26]

[24] See: https://www.usbr.gov/mp/warren-act/docs/contract-westlands-multiyear-convey-nonproject-water.pdf

[25] See: http://www.usgs.gov/newsroom/article.asp?ID=3731#.VRRBAKMtHVQ

[26] See: https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/Engineering-And-Construction/Files/Subsidence/Aqueduct_Subsidence_Study-Accessibility_Compatibility.pdf



The Survey data in the DWR Subsidence Report show this section of the Aqueduct, the San Luis Canal (Los Banos to Kettleman City), has subsided the most over the years.[27] The DWR report identifies a number of significant operational impacts of subsidence to the Aqueduct including: reduction in conveyance capacity, increase in power cost, decrease in available freeboard (the difference in elevation between the crest of the canal and the water level as fixed by design requirements). These effects are significant and costly to repair.

The IS/ND on page 51 points to the unavailable Water Quality Monitoring Plan for establishing groundwater level monitoring and reporting requirements for participating wells:

It is impossible to review the IS/ND without the key information in the Water Quality Monitoring Program. The IS/ND should be withdrawn and replaced by an EIR that includes this critical information for public comment review. Without the Water Quality Monitoring Plan and a full EIR, the public is unable to determine if reasonable alternatives which could reduce the environmental impacts of the project have not been considered.

Compliance with Clean Water Act is Absent.
As EPA noted in scoping comments submitted for the Westlands pump-ins in 2010, and attached to these comments for reference, the proposed discharge of contaminated groundwater from Westlands with potentially high salt, boron, chromium, arsenic, selenium and other metals would be subject to NPDES permitting requirements pursuant to the federal Clean Water Act. Further EPA noted, "*Permits will need to be designed to ensure the discharges do not cause or contribute to exceedences of applicable State*

[27] Ibid.

water quality standards or degradation of designated beneficial uses." [28] Westlands has failed to obtain the required CWA permits. No compliance with the federal Clean Water Act is provided in the IS/ND. Thus, the public is precluded from analyzing the permit and conditions to ensure protection and non-degradation of water supplies under the NPDES permit and potential mitigation measures. As we have noted above, the proposed discharges include various metals and constituents such as selenium that bioaccumulate in the food chain thus have amplifying the impacts.[29]

Compliance with NEPA is Not Provided.
As described on page 9 of the IS/ND, footnote 5, USBR's approval of the Westlands' 2020-2025 Warren Act Contract authorizing the Pump-in Project is subject to environmental review under the National Environmental Protection Act (NEPA) pursuant to the Council on Environmental Quality regulations (40 Code of Federal Regulations Parts 1500- 1508). Review of Reclamation's approval of Westlands' 2020-2025 Warren Act Contract pursuant to the requirements of NEPA is being prepared under an Environmental Assessment (EA). NEPA compliance has not been provided to the public for this Pump-in Project. As mentioned, inconsistent and critical water quality monitoring and standards that will be enforced have not been provided. A Negative Declaration can be not be adopted absent this critical environmental analysis and sufficient time provided for the public to have an opportunity to comment on the impacts and alternatives.

Cumulative Impacts
Cumulative impacts from other water exchanges are not disclosed or analyzed. We adopt by reference our comments from previous exchanges and transfers and previous scoping comments.[30] In addition to the continued extraction of water from already over drafted groundwater basins, the impacts from discharging this groundwater on Westlands's toxic soils and exacerbating an existing subsurface agricultural drainage problem on the west side of the San Joaquin Valley are not disclosed nor mitigated.

---

[28] http://calsport.org/news/wp-content/uploads/EPA-comments-Westlands-WD-EIR-NOP-3-4-10.pdf

[29] Select WWD 2008 Pump Ins at:
http://wdl.water.ca.gov/waterdatalibrary/waterquality/station_county/index_prj.cfm

[30] See comments provided http://www.usbr.gov/mp/nepa/documentShow.cfm?Doc_ID=14341 *"Resnicks'Westside Mutual Water District member lands in Westlands Water District to the AEWSD service area and Westside Exchange Program are not disclosed nor analyzed. Nor are the impacts to Madera County from the potential groundwater transfers likely contemplated under the proposed action. 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)."*

See 30,000 acre feet of groundwater proposed to be transferred to Westlands et. al. from the Mendota Pool http://www.usbr.gov/newsroom/newsrelease/detail.cfm?RecordID=49107

See also North Valley Regional Recycled Water Program-- http://www.nvrrecycledwater.org/description.asp *The NVRRWP could produce and deliver up to 32,900 acre-feet per year of tertiary-treated recycled water to the drought-impacted west side. This water can be used to irrigate food crops, public and privately owned landscaping, and for industrial uses. This basin transfer would alter San Joaquin River Flows and flows to refuges, and the South Delta Bay Estuary. The project would deliver up to 59,000 acre feet per year (AFY) of recycled water produced by the cities of Modesto and Turlock via the Delta-Mendota Canal (DMC), a feature of the Central Valley Project owned by Reclamation. Instead of discharging fresh treated water into the San Joaquin River, recycled water would be conveyed from Modesto and Turlock through pipelines from their wastewater treatment facilities, crossing the San Joaquin River, ending at the DMC.*

Selenium found in groundwater and drainage water in Westlands is known to create life threatening impacts to migratory birds, wildlife and fish, magnifying up the food chain as these pollutants accumulate. These impacts are merely brushed aside. No monitoring or reporting plan is delineated in the IS/ND. No data is provided to support the IS/ND conclusions of no impact. No alternatives are considered. Finally, there is insufficient analysis of the cumulative impact of discharging these contaminants into drinking water, wildlife refuge supplies, or downstream fish and wildlife beneficial uses.

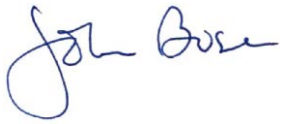
Conclusion

The IS/ND does not adequately assess the potentially significant environmental impacts from the project or alternatives to the project. 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 including third party impacts and impacts to fish, wildlife and water quality. Required permits and compliance with the Clean Water Act to allow discharge of contaminants into the waters of the state and nation have not been provided. Nor have necessary consultations with federal and state concerning potential endangered and threatened species impacts. The contract governing the full discharge period is absent. Prior to commencing with a project that has and likely will harm downstream uses, a complete EIR is required that includes, among other things, a comprehensive Water Quality Monitoring Plan to ensure waters of the State and Nation are not degraded, prior groundwater water quality data from participating wells from previous pump-ins, a copy of the Warren Act Contract, documentation of permit compliance, and full analysis of alternatives and cumulative impacts. This information should be included in the EIR that replaces the IS/ND. We object to the adoption of a Negative Declaration for this project. This IS/ND fails CEQA's "most important" purpose, to fully inform the decision-makers and the public of the environmental impacts of the choices before them." (83 Cal.App.4th at p. 920.)

Thank you for the opportunity to comment. Please add our names to Westlands' electronic notification lists for environmental documents regarding water supplies or contracts or conveyance.

Sincerely,

Jonas Minton
Senior Water Policy Advisor
Planning and Conservation League
jminton@pcl.org

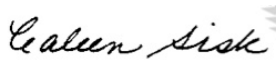


John Buse
Senior Counsel, Legal Director
Center for Biological Diversity
mailto:jbuse@biologicaldiversity.org

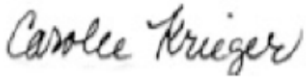
Bill Jennings
Executive Director
California Sportfishing Protection Alliance
deltakeep@me.com

Kathryn Phillips
Director
Sierra Club California
kathryn.phillips@sierraclub.org

Lloyd G. Carter
President, Board of Directors
California Save Our Streams Council
lcarter0i@comcast.net



Caleen Sisk
Chief and Spiritual Leader of the
Winnemem Wintu Tribe
caleenwintu@gmail.com



Carolee Krieger
Executive Director
California Water Impact Network
caroleekrieger7@gmail.com

Ron Stork
Senior Policy Advocate
Friends of the River
rstork@friendsoftheriver.org

Conner Everts
Executive Director
Environmental Water Caucus
Southern California Watershed Alliance
Environmental Water Caucus
connere@gmail.com

References Cited

USFWS, Oct 2017. Species at Risk from Selenium Exposure in California Inland Surface Waters, Enclosed Bays and Estuaries, Final Report to the U. S. Environmental Protection Agency Inter-Agency Agreement No. DW-14-95825001-0. USFWS, Sacramento, CA, 156 pp