

JAMES IRRIGATION DISTRICT

Incorporated February 16, 1920
8749 Ninth Street
Post Office Box 757
San Joaquin, California 93660-0757

Steven Stadler P.E., General Manager

BOARD OF DIRECTORS
Riley Chaney, President
Robert Barcellos
Thomas W. Chaney
Micah H. Combs
Robert Motte

Telephone: (559) 693-4356
Facsimile: (559) 693-4357

NOV 21 PM 2:17

VIA OVERNIGHT MAIL AND E-MAIL TO tbirmingham@wwd.ca.gov

November 18, 2019

Tom Birmingham, General Manager
WESTLANDS WATER DISTRICT
~~1243 N Street~~ 3130 N. FRESNO ST.
Fresno, CA 93720 93703

COPY

**Re: Supplemental Comments on Mendota Pool Group 20-Year Exchange Program
Final Environmental Impact Statement / Environmental Impact Report
State Clearinghouse # 2013041028**

Dear Mr. Birmingham:

The James Irrigation District ("District") requests that the Westlands Water District ("Westlands") not approve the Final Environmental Impact Report ("Final EIR") and that you do not approve the Mendota Pool Group 20-year Exchange Program ("Program"). The Final EIS contains a number of factual inaccuracies and misleading representations, some of which are noted below.

One area of concern to the District is Westlands' failure to address the cumulative effects on water quality in the Fresno Slough and Mendota Wildlife Area. The District notes that additional language was provided in the Final EIR on pages 225 and 226 where it discusses Impact SWQ-4. The text that was added does not quantitatively or adequately address the cumulative impact. Rather, the text talks around the impacts and provides reasoning why the impacts were not analyzed. For example, the text on page 225 states, "As many of these activities do not operate under permits, they are not considered individual cumulative projects, but instead are rather part of the cumulative baseline."

The District does not accept Westlands' reasoning to avoid considering the cumulative impacts of these discharges into the Fresno Slough. A number of the discharges into the Fresno Slough are associated with transfers that have been approved by the U.S. Bureau of Reclamation ("Reclamation") such as the Mercy Springs Water District and Fresno Slough Water District Multi-Year Transfers to Angiola Water District or are dischargers producing groundwater for

importation into Westlands through Lateral 6 or Lateral 7. Given the relationship of these dischargers to Reclamation and Westlands, the entities responsible for preparing the Final Environmental Impact Statement and Final EIR, the District believes that Westlands is in a position to identify the discharger, quantify the volume of discharge, and measure or estimate the salinity of the water that is discharged into the Fresno Slough.

The District also does not understand or accept Westlands' logic explaining the impacts on the District. Westlands' analysis on the effects concludes with the statement, "Therefore, prior to MPG exchange water reaches the James Irrigation District Booster Plant where salinity levels are the most concentrated, the 11 other parties operating within this area pump out almost four times more water from the Fresno Slough than the MPG transfer program discharges in any given year, likely resulting in the MPG water being captured and removed from the Fresno Slough by these entities that lie between the MPG and James Irrigation District." The statement appears to imply that the District does not receive a significant amount of "MPG water" and the source of the poor quality water received at the James Irrigation District Booster Plant is the "11 other parties operating within this area". No supporting information is provided to support this implication as the Final EIS avoids quantifying the quantity and quality of the non-MPG discharges. It is the District's understanding that most of the non-MPG discharges are introduced into waterways that flow away from the Fresno Slough and Mendota Pool such as Westlands Lateral 6 and 7. Because the majority of these discharges are not introduced into the Fresno Slough and the Mendota Pool, surface water quality impacts cannot be attributed to these discharges.

The Final EIR simply dismisses this requirement by asserting that the Project would "have a less than significant impact on surface water quality due to implementation of proposed Design Constraints...." (Final EIR, p. 562.) The District does not accept this conclusory analysis and refers you to the data and discussion in our initial comment letter. As further explained in that initial letter, the Anti-Degradation Policy applies whenever a discharge would cause any increase in concentration. (See *Asociacion de Gente Unida por el Agua v. Cent. Valley Reg'l Water Quality Control Bd.* (2012) 210 Cal.App.4th 1255, 1268.) When approving such a discharge, the NPDES permitting authority (in this case the Central Valley Regional Water Quality Control Board) must make certain **specific** findings. (*Id.* at p. 1278.) The EIR makes no attempt to support those necessary findings and thus does not comply with CEQA's requirement of combining environmental review to the extent possible. (See *Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918.)

Please understand that the District is significantly impacted by the degradation in water quality caused by the Mendota Pool Group Exchange Program. The Program introduces water into the Mendota Pool that is estimated to be 2,000 parts-per-million ("ppm") total dissolved

solids ("TDS") using wells as high as 4,730 ppm TDS. This causes water that is delivered to the Mendota Pool by Reclamation which is generally 150-200 ppm TDS to become degraded to 600 ppm TDS as limited by proposed mitigation measures. In years when the Program is in effect, the Program will authorize an additional 108,763 tons of salt to be introduced into the Fresno Slough and Mendota Pool each year. The EIR fails to examine the impact of this additional salt load on environmental resources including but not limited to, on soils, groundwater, and crops within the District's boundaries. It also fails to explain how its approval of this project will be consistent with the newly approved basin plan amendments made as part of the CV-SALTS program.¹

The District is concerned that Westlands' is not performing its duty to properly evaluate the work product tendered to it by the consultants for the Project components. We feel that a blind acceptance of this work does a disservice to water users and damages the credibility of Westlands in other matters. We strongly desire to engage Westlands in a dialogue about this Project and to have its impact analyzed in an honest and transparent manner.

Sincerely,



Steven P. Stadler, P.E.
GENERAL MANAGER

cc: Brenda Burman, Commissioner, U.S.B.R.
Ernest Conant, Regional Director, U.S.B.R.
Michael Jackson, Area Manager, U.S.B.R.
Charlton H. Bonham, Director, California Department of Fish and Wildlife
Julie Vance, Area Manager, California Department of Fish and Wildlife
Karl Longley, Chairman, Central Valley Regional Water Quality Control Board
✓ Patrick Pulupa, Executive Officer, Central Valley Regional Water Quality Control Board

¹ Details of these amendments and relevant information regarding the nitrate and salinity problems and how CV-SALTS propose to manage them can be found in the CVRWQCB's Final Staff Report on the amendments (https://www.waterboards.ca.gov/centralvalley/water_issues/salinity/2018_0531_sncp_bpa_final_stfrpt.pdf) and its exhibits (https://www.waterboards.ca.gov/centralvalley/water_issues/salinity/2018_0531_sncp_bpa_final_stfrpt_apps.pdf). The amendments themselves are contained in CVRWQCB Resolution No. R5-2018-0034 (https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/resolutions/r5-2018-0034_res.pdf). The SWRCB approved these amendments on October 16, 2019 and they are currently under review by the Office of Administrative Law.