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RUST, TIMOTHY <trust@usbr.gov>

Comments on USBR Draft EIS for the CVP M & I Shortage by Tehama Colusa Canal Authority

1 message

Jeff Sutton <jsutton@tccanal.com> Mon, Mar 16, 2015 at 2:41 PM
To: trust@usbr.gov

Dear Mr. (Tim) Rust:

The Tehama Colusa Canal Authority (TCCA), on behalf of itself and the 17 CVP Agricultural Water Service Contractors that it serves, respectfully submits these comments on the Draft EIS for the Central Valley Project Municipal and Industrial (M & I) Water Shortage Policy. I hope you will disregard that these comments are submitted a bit late. Due to the overwhelming challenges associated with the historic drought conditions currently being experience, and a second year in a row of zero allocations for TC Contractors, these comments were not able to be finalized for submission on Friday. 1

1. TCCA objects to the M & I Water Shortage Policy as a matter of law, nowhere in California law, nor federal law, does it provide for a priority of water for municipal and industrial purposes over water for agricultural purposes. California v. US makes clear that the USBR must follow state water rights, this policy flies in the face of and is inconsistent with the state of California's water rights priority system, area of origin laws, and county of origin laws, particularly as it relates to exchange and settlement contractors.

2. The EIS neglects to adequately examine the impacts to health and safety associated with depriving water to agricultural due to the priority for M & I uses. Rural agricultural communities throughout the CVP service area are reliant on water supplied by the CVP to maintain their local economies, including the four county region on the Westside of the Sacramento Valley that is served by the TCCA. Reducing allocations as a result of this policy will have disastrous effects on these communities, resulting in a significant loss of *jobs and economic* activities, resulting in severe socioeconomic impacts that will result. This choice to prefer urban areas over rural areas is a violation of environmental justice, and neglects the impacts to this area where all of these communities qualify as disadvantaged communities. In rural areas, our farms are our "factories" (read "industry"). Selecting one industry of over another makes no sense in this context. A study during the Red Bluff Fish Passage Improvement Project illustrated that 16,000 jobs were produced as a result of the irrigation of the 150,000 acre TC service area. No adequate assessment is done to adequately assess these severe and numerous socioeconomic impacts that would result with the implementation of this policy. 2

3. The EIS further neglects to adequately assess the environmental impacts associated with reduced allocations of irrigation water to the agricultural lands that cannot be planted as a result of a reduction of CVP water to agriculture as a result of this policy. Throughout the TCCA service area, these agricultural lands also oftentimes serve as habitat to a variety of animals, waterfowl, reptiles, and other wildlife, including some that are endangered and/or threatened (i.e. Giant Garter Snake). The EIS completely fails to adequately assess the impacts associated with the causal relationship associated with the implementation of this policy on the Pacific flyway, and to other flora and fauna that would be negatively impacted. 3

4. The EIS fails to adequately assess the impacts of this policy on groundwater supplies and groundwater quality associated with its implementation. This policy would result in further allocation reductions to agricultural 4

regions served by the CVP, this would cause growers, particularly those with permanent crops, to dramatically increase groundwater pumping, thereby causing negative impacts to groundwater levels, water quality, and potentially causing significant subsidence in some areas.

5. The EIS fails to adequately assess the growth inducing impacts associated with the implementation of this policy. Further, by failing to adequately assess these impacts, the document fails to account for the increased water demands of M & I contractors with this increased growth, magnifying even further all of the impacts associated with the accompanying reduction of allocations to agricultural contractors. 5

6. Further, TCCA objects to any impacts and/or change in terms caused by the implementation that this proposed policy has on TC Contractors existing water service contracts that were renewed in 2–5, which required its own significant EIS/EIR and consultations. 6

7. All of the data relied upon in the EIS is from 2010, which fails to take into account the changed circumstances of the past five years and the recent occurrences related to impacts associated with reduced allocations to CVP ag water service contractors. 7 Further, it neglects to take into account the upcoming results of the BOs that are currently being updated per court order and the associated NEPA efforts that are currently underway. 8

8. The EIS fails to consider an adequate array of alternatives. I would suggest that adding an alternative that provides for a priority for the historical level of minimum health and safety needs (25%) for M & I contracts, at which point Ag contractors would then receive the next volume of water allocations up to 25%, at which time all remaining allocations (Ag and M & I) would be increased from that point at evenly. It provides a priority for only the true human health and safety needs, and thereafter, it acknowledges that there is no priority for M & I water, and allocates to both uses evenly thereafter. 9

On behalf of the TCCA, I respectfully submit the foregoing,

Sincerely,

Jeffrey P. Sutton

General Manager

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RECLAMATION

Managing Water in the West

PM01

CVP M&I Water Shortage Policy Environmental Impact Statement Public Meeting

December 8, 2014
Sacramento, California

Questions and Comments Received

Walt McNeill, McNeil Law Offices, representing Clear Creek Community Services District

In reviewing the Draft EIS, there is not a place for or printed copies of the written alternatives. I found Alternatives 1, 4 and 5, but don't have 2 or 3. Did you develop those? Are they available as written documents? 1

Reclamation Response: A link on the website is provided to a summary of Alternative 4, which is a working draft provided in October 2010 developed from the stakeholder workshops. Alternative 2, Equal Agricultural and M&I Allocation, and Alternative 3, Full M&I Allocation Preference, are book end analyses with one favoring Ag and the other M&I to provide a full range of possibilities, and consist only of the allocation tables in Chapter 2.

Greg Zlotnick, San Luis Delta-Mendota Water Agency

How do environmental water or refuge water fit into the policy? 2

Reclamation Response: Refuge water supplies are built into the model and will not be affected by the M&I WSP. Refuge water is considered regulatory and is not based on policy.

Is it discretionary or a mandate that it is called the "M&I" policy even though it applies to all contractors? 3 What are the key differences between Alternative 4 and Alternative 5? 4

Reclamation Response: As shown in the tables in both the Executive Summary and Chapter 2, the difference between the two alternatives is the trigger point for public health and safety requests. Alternative 4 is at 75% and Alternative 5 is at 95%.

Dan Corcoran, El Dorado Irrigation District

What is the CalSim 2030 demand? Is that based on 2005 plans? 5

Reclamation Response: CalSim assumes full contract demand. Public health and safety demands estimate 2030 population and non-CVP supplies.

Where are the public health and safety values? 6

Reclamation Response: Those are found in Appendix A.

What is in the 2030 CalSim set of assumptions? 7

Reclamation Response: Modeling assumptions were decided on in 2011/2012. The assumptions are based on the Department of Water Resources' reliability report and updated with information needed for this project, including estimates of historical use.

Were the Water Control Manual Update assumptions include in the model? 8

Reclamation Response: No, they are not included.

Greg Zlotnick, San Luis Delta-Mendota Water Agency

What are the NEPA requirements for thresholds of significance? 9

Reclamation Response: Unlike CEQA, NEPA does not require impact significance determinations, but instead discloses impacts.

Is that the author's stance?

Reclamation Response: It is the NEPA requirements. Reclamation already determined that the impacts are significant through the act of preparing an EIS. The document does not need to disclose that things are significant or not, but just disclose the magnitude of impact.

Ed Kriz, City of Roseville

What is the process to request an extension for the comment period? 10

Reclamation Response: Please submit a request for extension to Tim Rust and he will speak with management. The project has a very aggressive schedule, being driven by the Regional Director and requests from CVP contractors.

Jason Nishijima, Santa Clara Valley Water District

What is the projected date for the ROD? 11

Reclamation Response: The ROD is projected to be complete by June 2015 with 2016 as the projected start for allocations.

Until the ROD is signed, will the existing draft policy remain in effect? 12

Reclamation Response: There is no commitment to change allocations until a ROD is signed.

Walt McNeill, McNeil Law Offices, representing Clear Creek Community Services District

The nomenclature of the policy is "Municipal and Industrial Water Shortage Policy," but the legal effect is that is it a CVP water policy. It defines what both M&I and ag users get. There are many ag agencies that don't understand this applies to them or think it doesn't. 13

There is a conflict between the benchmark in M&I use in Alternative 4 and the draft EIS projection for M&I use. In the actual policy language, it is still tied to Water Needs Assessment done in 2003, but Draft EIS page 2-20 states you have more accurate information. But the M&I contractor data has M&I use that exceeds contract total. The first problem with this is the Water Needs Assessment in 2003. We have been complaining about it and think it's mistakenly limiting our M&I use. But the Draft EIS we do agree with because we believe M&I use by 2030 will exceed contract total. The Water Needs Assessment essentially puts a cap on M&I use. The second problem is how accurate is the environmental analysis if you're doing the analysis on one standard versus another. 14

We'll identify in a list of concerns, previously identified, that of application to mixed use contractors and the lack of consideration for mixed use contractors. Our client is 50/50. The Draft EIS doesn't show any consistent approach for mixed use contractors. Is allocation based on historical use or contract quantity? It doesn't say. 15

There are no provisions for farm households living on farm parcels and subsisting on ag water. Our client has 300 farm families, approximately 1,000 people, whom would receive zero water allocation in some cases under this policy. How do we make this work in a common sense way? We'd like it to be addressed. 16

A blind spot in the environmental analysis is the policy will ratcheting up use of M&I water through the CVP. This is not identified or discussed in the document. If you were to list all M&I users and contractors use of contract supply, you would see that they use only 60-70% of contract totals and still have 30% left to grow and will only need and receive more water as their populations increase. We'll have ratcheting effect of increased M&I use. Overall because M&I has priority, that means reduction of water for Ag. This should be examined. 17

The "M&I WSP" terminology confuses U.S. Congressmen. Congress has just introduced H.R. 5781, the California Emergency Drought Relief Act of 2015. The Act amounts to an ag water shortage policy to develop a similar allocation step 18

down process, as if that would not have an impact on an M&I WSP. It would be very favorable for Ag contractors. They say it won't affect the M&I WSP, but there is no clear line of separation between the two. 18

PM02

CVP M&I Water Shortage Policy Environmental Impact Statement Public Meeting

December 10, 2014
Willows, California

Questions and Comments Received

Hank Wallace, individual

The demand side of the policy sounds great, but where is the water coming from? 1
2 What are the baseline conditions? Who built CalSim II? And how long has it been used for? 3

Reclamation Response: CalSim II was developed jointly by the California Department of Water Resources and Reclamation. CalSim II has been used for at least the past 15 years and was an update to the original CalSim I model. CalSim III has been recently released. The CalSim models were developed to specifically model CVP and SWP and incorporates the projects major infrastructure.

In Glenn County, huge numbers of wells have gone in to beat any regulations on groundwater management. We shouldn't be pumping groundwater to make up needs because surface water is being used elsewhere. You should research each northern California county and get the well logs to gather a feeling of the amount of overdraft. We're going to have a mini-San Joaquin situation in Butte County. Wells are going dry, this is a drought issue. People are concerned water is going to San Joaquin, Oakland, and other monied interests. Before going ahead with the model take into consideration the past three years. Well drillers are going 24-7. Models need to account for the drought and current conditions. If this was accounted for it would make the document and policy stronger. What is expected flow into Shasta? There is a lot of water conservation that still could be considered in the M&I area. 4 5

Oscar Williams, O&J Farms

Who decides the final decision? Public vote or Reclamation? 6

Reclamation Response: A Record of Decision will be submitted in June 2015 by the Reclamation Regional Director of the Mid-Pacific Region, who bases his findings on the environmental analysis and public comment.

If Alternative 2, 3, or 4 is accepted, where does Ag get water? Where will CA get water to grow if the Regional Director decides on one of these alternatives that say no water for Ag? That's a big responsibility for one man. There are 380,000 acres in this county of Ag land, $42 billion in California. I own land right across from where GCID wants to put more wells 500 feet deep. What happens to my groundwater? There are 55,000 Ag wells in Glenn County. 7

Hank Wallace, individual

GCID is putting wells in the ground because of potential reductions in Reclamation water. DWR has 126 wells in Glenn County alone. If Ag loses from these alternatives, what do we do? 8

Oscar Williams, O&J Farms

I'm concerned about the effects of the Bureau of Reclamation, GCID, whoever is responsible for water, on my business. 9

Reclamation Response: Water supply allocations, and the decision behind irrigation, M&I, and environment are separate from the M&I WSP.

Whatever we can do to work together to get this stuff solved is good. No one has answers, potential solutions, and no money. Wish someone would. 10

RECLAMATION

Managing Water in the West

PM03

CVP M&I Water Shortage Policy Environmental Impact Statement Public Meeting

December 16, 2014
Fresno, California

Questions and Comments Received

Bill Luce, Friant Water Authority

If the No Action Alternative is selected in the ROD, will Reclamation finalize and implement the 2001 draft WSP Policy and if so, doesn't that represent an action? So how is that a "no action?" 1 The 2001 Draft WSP exempted the Cross Valley Canal Unit because OCAP exempted them. The Bureau's 2008 BA also states the CVC won't come under the WSP, why? We'll probably make a written comment on this. 2

Mark Rhodes, Westlands Water District

We've been in limbo for a decade because of the administrative status and draft policy. There were actions taken this year by the State Board that were geared towards providing public health and safety. The Final EIS should address what occurred this year and the impacts to the project because it did affect CVO. It appears the actions by the State Board are similar to Alternative 4, is that true? Something in this EIS should address the impacts of this year. The actions of the State Board directly affect this policy. For the result of this year and decisions forced by the State Board, which alternative did come closest to what happened? We would like an answer by Reclamation. We think it is Alternative 4. 3

The East Side contractors, Friant Division, and refuges are said not to be affected by the WSP. But because things are intertied, you can't really say that's true. Friant gave up water to give to the refuges. You need to explain what happened this year. 4

Make sure water in the water bank is considered in the calculation of non-CVP supplies for contractors in the San Felipe Division. 5

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