

Press Release For Immediate Release

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Significant Legal Win for North State 10-Year Water Transfer Program Failed Analysis and Disclosure

February 16, 2018 - Chico, CA. The federal district court in Fresno issued a strong order yesterday supporting many of the claims made by AquAlliance and co-plaintiff partners. The lawsuit was filed in May 2015 against the U.S. Bureau of Reclamation (USBR) and San Luis Delta Mendota Water Authority (SLDMWA) over their inadequate disclosure, avoidance of impacts, and mitigation of major water transfers from the Sacramento Valley through the Delta to the San Joaquin Valley.

AquAlliance Executive Director Barbara Vlamis stated, “AquAlliance is elated that the court found in favor of many of our legal arguments that seek to protect the communities, environment, and groundwater dependent farmers in the Sacramento Valley as well as Delta farmers and fish. This ruling exposes the danger posed by the 10-Year Water Transfer Program’s water-grab that would benefit agricultural interests with junior water rights growing permanent crops in a desert.”

USBR and SLDMWA (Agencies) approved a Program that could send up to 600,000 acre-feet of Sacramento Valley water south of the Delta – each year.¹ When combined with additional state approved transfers, the total could be over 800,000 acre-feet each year. If history is any guide, half of the transfer water could come from groundwater substitution.² Although widely opposed by NorthState residents and local government, the Agencies moved forward approving the use of groundwater substitution, fallowing, reservoir releases, and conservation to make the transfers possible. The Agencies proposed a thin veneer for mitigating impacts that depends only on monitoring the stressed hydrologic systems (groundwater, streams, and rivers) to produce data that will be reviewed in the future by USBR and the California Department of Water Resources (DWR).

The lawsuit asked the court to declare that the Agencies’ Environmental Impact Statement/Report was arbitrary and capricious, ignored relevant new information and failed to meet minimum requirements of the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA). The court order ruled in favor of AquAlliance in many areas for example:

1. CEQA claims
 - a. The absence of performance standards for groundwater mitigation measure.
 - b. The FEIS/EIR failure to mitigate for land subsidence.
 - c. The inadequate cumulative biological impact analysis regarding reduced delta outflow.
 - d. The FEIS/EIR’s failure to analyze impacts to the giant garter snake and propose mitigation.³
2. NEPA claims
 - a. Failure to evaluate the effectiveness of groundwater mitigation.
 - b. Climate change.

¹ 600,000 acre-feet each year for 10 years is equivalent to what a city of 100,000 people would use in 200 years.

² Groundwater substitution transfers take place when a water district sells its river water that is normally used to irrigate rice and instead continues growing rice by pumping well water. The grower makes money on both the water sale and the rice that is grown

³ “This type of failure was deemed dangerous because the lack of analysis and findings about the extent of impacts makes it impossible to determine if the mitigation measures are sufficient.”

AquAlliance's co-plaintiff, represented by Aqua Terra AERIS, is the California Sportfishing Protection Alliance. Additional co-plaintiffs in the litigation are also the Central Delta Water Agency, Local Agencies of the North Delta, and South Delta Water Agency that are represented by the Soluri Meserve law firm.

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AquAlliance is a 501 (c) (3) non-profit public benefit corporation established to defend northern California waters and to challenge threats to the hydrologic health of the northern Sacramento River watershed to sustain family farms, communities, creeks and rivers, native flora and fauna, vernal pools and recreation.

www.aqualliance.net

Background

1) U.S. Bureau of Reclamation /SLDMWA 10-Year Water Transfer Program

<http://www.usbr.gov/mp/cvp/lwtw/> and

http://www.usbr.gov/mp/nepa/nepa_projdetails.cfm?Project_ID=18361

2) Maps illustrating the groundwater conditions in the Sacramento Valley.

http://www.water.ca.gov/groundwater/data_and_monitoring/northern_region/GroundwaterLevel/gw_level_monitoring.cfm

3) Past Water Transfers from the Sacramento Valley Through the Delta as reported in the Western Canal Water District Negative Declarations for 2010 and 2015.

Past Water Transfers from the Sacramento Valley Through the Delta in TAF Annually*														
Water Year Type **	Dry	Dry	AN	BN	BN	Wet	Dry	Critical	Dry	BN	Wet	BN	Dry	Critical
Program	2001	2002	2003	2004	2005	2006	2007	2008 ⁴	2009	2010	2011	2012	2013	2014
DWR Drought Water Bank/Dry Year Programs	138	22	11	0.5	0	0	0	0	74	0	0	0	0	
Enviro Water Acct	80	145	70	120	5	0	147	60	60	60	0	60	60	
Others (CVP, SWP, Yuba, inter alia)	160	5	125	0	0	0	0	173	140	243	0	190	210	198
Totals	378	172	206	120.5	5	0	147	233	274	303	0	250	270	198

*Table reflects gross AF purchased prior to 20% Delta carriage loss (i.e., actual amounts pumped at Delta are 20% less or more)

** Based on DWR's measured unimpaired runoff (in million acre-feet)

Abbreviations: AN - Above normal year type and BN - Below normal year type (<http://cdec.water.ca.gov/cgi-progs/iodir/wsihist>)

⁴ The Environmental Water Account ended in 2007 (Bay Delta Conservation Plan Draft EIS/EIR 2013). The figures that continue in this row are based on a long-term contract with the Yuba County Water Agency to sell water.