



Westlands Water District

3130 N. Fresno Street, P.O. Box 6056, Fresno, California 93703-6056, (559) 224-1523, FAX (559) 241-6277

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CONTACT

Sarah Woolf

559-341-0174

WESTLANDS STATEMENT ON NMFS BIOLOGICAL OPINION ON SALMON

Federal regulators today have imposed an additional, new regime of restrictions, cutbacks and prohibitions on California's water supplies without performing any environmental analysis of its potentially devastating effects. They have rushed this Biological Opinion into place without bothering to prepare an Environmental Impact Statement, without public hearings or the kind of independent public review that the law requires.

This is a violation of the National Environmental Policy Act and of federal endangered species law.

The Westlands Water District intends to join with other public water agencies in bringing a lawsuit to have this Biological Opinion set aside and to compel the National Marine Fisheries Service to go back and perform the careful analysis it should have done to assess the potential harm this plan could do to public health and safety, communities and the environment.

A partial list of the impacts that the National Environmental Policy Act requires the National Marine Fisheries Service to assess is attached to this statement.

If it were allowed to stand, this Biological Opinion would be a death sentence for large parts of California's economy. Communities in the San Joaquin Valley are already experiencing 40 percent unemployment rates. This new order is so extreme and far-reaching that its adverse impacts will extend to businesses throughout the state. It will further reduce supplies for homeowners and increase uncertainty for almost everyone who expects to have water when they turn on the tap.

It is certainly not in the best interest of the United States or the Obama Administration to do this kind of damage to California. The implementation of these restrictions will prolong the recession, delay economic recovery, impact the supply of fresh fruits and vegetables as well as other goods and services, and adversely affect consumers throughout the country.

How much more water would this Biological Opinion take away from farms and cities and other environmental needs? The state estimates this new order may cut an additional 500,000 acre feet out of the system every year. But these additional cutbacks would come on top of existing federal restrictions that have reduced California's water supplies this year by nearly one-third.

In the midst of the current drought, those existing federal restrictions have caused nearly 370,000 acre feet of fresh water to be wasted into the ocean in just the first five months of this year. That's enough water to meet all the needs of 1.2 million people for a year. Now NMFS proposes to take another 500,000 acre feet out of the supplies that 25 million Californians rely on.

The good news is that because of existing water conditions, the most damaging aspects of the Biological Opinion are not likely to take effect until much later in the year. That means there will be time to ask the federal court to suspend this Biological Opinion and compel the federal fisheries agencies to comply with the law that requires the preparation of a proper environmental impact statement.

As a public agency, we have an obligation to do everything we can to minimize the damage that these new restrictions could do to humans, communities and the environment. The defects of the Biological Opinion demonstrate the folly of pursuing a piecemeal, species-by-species approach to the environmental needs of a complex ecosystem such as the Delta. We need to complete the Bay Delta Conservation Plan (BDCP) as quickly as possible so that we can replace this kind of patchwork with a fully integrated, comprehensive program for repairing the environmental health of the Delta and making the long-term improvements that are need to restore the reliability of California's water stem.

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Environmental Impacts that NMFS Failed to Assess

Why an Environmental Impact Statement Is Required

The National Environmental Policy Act (NEPA) requires that federal agencies undertaking any major action must analyze the environmental effects of that action. (42 U.S.C. § 4332(2)(C).) Thus, it is imperative that the National Marine Fisheries Service (NMFS) first perform an appropriate environmental review of all the changes that the Biological Opinion (BiOp) would impose on the Central Valley Project (CVP), the State Water Project (SWP), and the resulting direct and indirect environmental impacts of curtailing water deliveries throughout most of Central and Southern California, including parts of the San Francisco Bay Area.

Depending on the level of export curtailment, the environmental effects from restriction under the NMFS BiOp would likely include impacts to aesthetics and agriculture from abandoned and fallowed agricultural fields, to air quality from the increased dust and particulate matter from those fields, to biological resources from the lack of water for use for wetlands and species outside the Delta, to geology and soils from the use of lower quality and higher salinity water, to hazards due to land subsidence from overpumping groundwater and lack of water for wildfires, to hydrology and water quality due to lack of imported water for replenishment, and to land use from the curtailment of drinking water supplies throughout California.

Human impacts resulting from chronic and severe water supply shortages are already evident throughout the Central Valley. Unemployment rates through many parts of the Westside exceed Depression era levels. Food lines are becoming all too common in several rural Westside communities and the demand can outstrip the ability of the food banks to provide. Demand for social services is peaking at a time when the ability of local and state government to respond is also severely depressed due to the broader global economic downturn.

The physical environment is also being impacted. In areas of the Central Valley where groundwater is available, concern is focused upon the future effects that salt buildup and subsidence will have upon the soil. Wildlife refuges rely on transfers for up to one-quarter of their water supply, which is now both less plentiful and far more expensive. Non-irrigated fields can often produce dust during the frequent wind events that occur throughout the region compounding the already significant number of respiratory ailments associated with the San Joaquin Valley such as asthma. Non-cultivated fallow fields can also provide excellent habitat for non-native plant species such as Russian thistle (aka tumbleweed), which, upon maturity, breaks from the soil and is transported with the wind. This migration can threaten remaining native plant ecosystems, impact crops and infrastructure such as highways and canals, and produce rashes and allergic reactions among people exposed to the noxious weed.

Drought Impacts

Any decrease in water supplies conveyed through and from the Delta that are the result of the NMFS BiOp would greatly exacerbate existing water shortages, as well as the drought's environmental and economic impacts, and would generate cumulative impacts in conjunction with other recently implemented constraints upon the projects' operations. Because of the dire water situation in California, these impacts could not be ameliorated by additional conservation measures, since aggressive integrated regional water management, including water conservation and use efficiency, is already being implemented throughout the affected regions, including mandatory water rationing in some areas. It is important that a NEPA review be performed to determine the least environmentally damaging way of meeting the NMFS BiOp's protection goals.

Impacts on Groundwater

Between the years of 1985 and 2004, even with the use of imported water, groundwater production grew five percent faster than groundwater recharge throughout the extensive service area of the Metropolitan Water District. Reductions in deliveries from SWP have led to increased pumping, reduced groundwater recharge and dropping groundwater levels in many groundwater basins in the San Joaquin Valley and Southern California. Thus, total groundwater storage in the SWP service area, which was already declining, will suffer additional losses if the NMFS BiOp includes increased restrictions on project operations, and such restrictions will almost certainly widen the existing disparity between the recharge and production of groundwater.

Metropolitan, annually delivers 200,000 acre-feet of imported water on average to groundwater basins for dry-year storage and to prevent groundwater overdraft and its concomitant environmental impacts. If the NMFS BiOp includes additional restrictions on SWP operations, very few years will have Northern California water available for storage and overdraft prevention, effectively eliminating this tool and thus exacerbating future droughts.

Groundwater basins in Southern California that are routinely recharged with imported water are generally able to maintain groundwater production levels for two years after recharge has ceased. Thereafter, local groundwater production declines, and retail water demand then shifts to the local agency for full water service delivery. The rebounded demand on Metropolitan and its member agencies associated with the new NMFS BiOp will compound imported water shortages and substantially increase the potential for water supply rationing and its associated economic and environmental impacts within Southern California.

Impacts on Water Storage

Metropolitan is illustrative of the kinds of impacts the NMFS BiOp will have on water agencies throughout California. Following the 1987-1992 drought, Metropolitan's Integrated Water Resources Plan established regularly updated strategies for managing shortages. Measures in the Metropolitan plan include contractual groundwater storage programs for SWP water. As of January 2008, Metropolitan had 773,000 acre-feet stored in these programs but, due to shortages caused by drought and court-ordered curtailments, Metropolitan has been drawing down this storage to maintain reliable water deliveries. As of October 2008, storage had been reduced to 664,000 acre-feet, indicating that the emergency supplies of water available to Southern California are rapidly declining even without the anticipated restrictions of the new NMFS BiOp.

Further restrictions on SWP operations would eliminate surplus imported water supplies in almost all years, likely making it impossible to recharge the groundwater storage used to maintain water supply reliability in dry years. Loss of this water management tool would have significant adverse impacts on water supply reliability in Southern California.

Impacts on Recycling

Groundwater basins within the service areas of many water agencies are recharged with recycled water, thereby reducing the demand for imported water. However, each cycle of urban use of recycled water typically adds 250 to 400 milligrams per liter of total dissolved solids. When wastewater flows already have high salinity concentrations, the use of recycled water becomes more limited or will require much more expensive treatment. Consequently, higher quality blend water is required to render this recycled water usable for groundwater recharge and other activities.

Some Regional Water Quality Control Boards have adopted water quality control plans for groundwater basins within their jurisdictions that include water quality objectives for maximum amounts of TDS. When inadequate amounts of high-quality SWP or CVP blend water are available to meet the water quality requirements of these orders for recycled water recharge, recycled water cannot be used for recharge and member agencies must consequently defer or abandon water recharge efforts. Loss of high quality water to blend with recycled water for recharge thus contributes to additional groundwater recharge losses and the growing overdraft of groundwater basins in Southern California and the San Joaquin Valley.

Impacts on Recycled Water Use

Recycled water is also frequently used for landscape and agricultural irrigation and industrial applications. However, such reuse becomes problematic at TDS concentrations of more than 1,000 mg/L. Some crops are also particularly sensitive to high TDS concentrations, and the use of high salinity recycled water may reduce the yields of these crops. In addition, concern for water quality in groundwater basins may lead to restrictions on the use of recycled water for irrigation on lands overlying those basins.

For example, diminished SWP supplies have already resulted in increased TDS concentrations in Metropolitan's blends, in some instances, and this is impacting the ability to recycle the resulting wastewater. Further reductions in delivered SWP and CVP supplies would result in even greater impacts of this type in other areas as well.

Impacts on Subsidence

The most far-reaching and potentially destructive impacts due to increased groundwater overdraft are land subsidence and earth fissures. Land subsidence is the sinking of the Earth's surface due to subsurface movement of earth materials. The major cause of subsidence in the southwestern United States is the over-drafting of aquifers. The negative effects of land subsidence include the permanent loss of groundwater storage space and changes in elevation and the slope of streams, canals, and drains.

Additionally, in some areas where groundwater levels have declined, surface streams lose flow to adjacent groundwater systems. These losses entail significant impacts to hydrology, as well as the biological systems that depend on those groundwater or surface flows. Land subsidence can lead to cracks and fissures at the land surface, which may damage bridges, roads, railroads, storm drains, sanitary sewers, canals, levees, and private and public buildings.

Impacts on Agriculture and Food Production

Agricultural operations in Fresno County, Tulare County, Kern County, San Diego County, and other areas of the State rely on Delta water, and this supply of water is already being impaired, with concomitant environmental effects. For example, effective January 1, 2008, Metropolitan called on participants in its Interim Agricultural Water Program to reduce their water use by 30 percent. Major citrus and avocado growers have had to stump or remove trees from their groves in order to comply with the water use reductions. The decreases in water availability for San Diego County agricultural operations as a result of the operational constraints due to delta smelt restrictions resulted in the loss of nearly 2,000 acres of avocados, as just one example.

To the extent the NMFS BiOp imposes further restrictions, even more fallowing and crop destruction will almost certainly occur. Fallowing, in turn, leads to losses in farm jobs, public health impacts, and other effects that must be evaluated before the NMFS BiOp takes effect. Curtailing the imported water supply would reduce crop availability and create economic impacts as farmers idle crops and fallow land.

Impacts on Soil and Air Quality

Land clearing and fallowing would have obvious attendant environmental impacts. Such actions may result in substantial soil erosion and loss of topsoil and additional dust and air pollution emissions, including in those areas and counties, such as Merced, Fresno, Kern, and Kings Counties, where air quality is already in noncompliance with federal Clean Air Act standards. Additional fallowing and under-irrigation of agricultural lands that could result along the Westside due to further restrictions on project operations could add hundreds of tons per year of wind-borne particulates in the air in the San Joaquin air basin. In addition, the loss of significant amount of agricultural land would be a significant land use change.

Impacts on the Quality of Drinking Water

Because of varying levels of quality in their water sources, some water agencies must manage the salinity of the water they provide in order to maximize water use and meet the demands for drinking water of the citizens they serve.

Metropolitan's blending practices provide an example of the necessity for high quality Northern California water. Metropolitan has adopted a policy to achieve blends of these source waters that do not exceed TDS concentrations of 500 mg/L. Metropolitan adopted this standard because salinities higher than this level would increase service costs, decrease the amount of water available, and reduce operating flexibility. For example, high salinity water has a residential impact resulting from the increased degradation of water heaters and other plumbing fixtures. Further, direct treatment of saline water without blending is costly and typically results in losses of up to 15 percent of the water processed. In addition, water with a high salinity content results in more saline wastewater, which lowers its usefulness and increases the costs of treating and utilizing recycled water.

Water agencies in the Central Valley must meet similar requirements and face similar costs. For example, unless higher salinity water is treated or blended, it will affect agricultural use and degrade the quality of soils in their service areas.

Impacts on Protected Species

Although a biological opinion's purpose is to aid the recovery of listed species, if the NMFS BiOp decreases water agency imports, there will be a significant impact on other protected species. For example, the northwestern portion of Kern County is home to 14,000 acres of flooded water habitat, including the Kern National Wildlife Refuge, where migratory birds, including protected and listed species, nest and feed during the fall and winter. An additional 11,000 acres of recharge ponds are located in the Kern River fan area, which provides seasonal habitat during recharge cycles. These complexes depend on the fall and winter delivery of surface water to provide for migratory bird habitat.

If the NMFS BiOp significantly decreases importation of water beyond the limitations in the existing biological opinion, no Northern California water will be available to fill these ponds. Because local surface water supplies to fill the ponds are only available in locally wet years, curtailment of water for the purported benefit of the salmonid species would result in the destruction of this habitat for other protected species.

Another example of protected and listed species that could be harmed by any new restrictions imposed by the NMFS BiOp is found within the boundaries of the Santa Clara Valley Water District, which receives water from both the SWP and CVP. Of the 163 miles of local streams used by Santa Clara for instream groundwater recharge, 129 miles are considered to be habitat for threatened or endangered species, including 32 species of plants, 50 species of wildlife, six amphibians, and three aquatic species listed as special status species under State or federal law.

Local reservoirs, streams, and artificial recharge ponds provide habitat for 11 native species and 19 nonnative species of fish. Populations of protected steelhead trout are known to exist in Coyote Creek, Guadalupe River, Stevens Creek, and San Francisquito Creek and their tributaries.

Santa Clara's average in-stream flow releases for groundwater recharge are normally about 104,000 acre-feet. If dry hydrologic conditions continue, total groundwater recharge will be limited to approximately 84,000 acre-feet. Any new import restrictions in the NMFS BiOp would reduce this amount still further, significantly impacting these species.

Impact on Wildfires and Public Safety

As aquifers are depleted and imports are further curtailed, affected water districts will be forced to increasingly rely on their remaining water resources. One of the few remaining sources is emergency storage supplies, which water agencies and local districts will be compelled to tap in order to meet their constituencies' demands. This will put the state at risk because of the compromised ability to ensure adequate flows in the event of large wildfire outbreaks, a large seismic event, major Delta levee failure or other catastrophic occurrence.

The on-going drought conditions have already created a situation of extreme fire danger and have resulted in destructive fires in many areas of the state. Such fires have had, and future fires will continue to have, devastating economic and environmental impacts, including air quality impacts, structure and crop destruction, and landslides.