

DEPARTMENT OF WATER RESOURCES

715 P Street, P.O. BOX 942836
SACRAMENTO, CA 94236-0001
(916) 653-5791

**VIA EMAIL**

10/25/2023

Mr. Scott Sills
Empire West Side Irrigation District
PO Box 66
Stratford, CA 93266
scott@lagunaid.com



SCH# 2023090554

RE: Empire West Side Irrigation District Transfer of SWP Table A Contract Amount from Tulare Lake Basin Water Storage District Proposed Negative Declaration

Dear Mr. Sills:

The Department of Water Resources (Department) has reviewed the Initial Study/Proposed Negative Declaration (IS/ND) for the proposed permanent transfer of 617 acre-feet of State Water Project (SWP) Table A Contract amount from Tulare Lake Basin Water Storage District (TLWSD) to Empire West Side Irrigation District (EWSID). The Department is a California state agency responsible for managing water resources, systems, and infrastructure, including the State Water Project (SWP), in a responsible, sustainable way. The IS/ND appropriately acknowledges that the Department's approval will be required for this proposed Project. The Department has the following comments on the IS/ND.

2.1.6 Project Description

Under CEQA, the term "project" refers to the whole of an action, which has a potential for resulting in either a direct physical change or a reasonably foreseeable indirect physical change in the environment. The IS/ND describes the proposed Project as a "permanent transfer of 617 acre-feet (AF) of State Water Project (SWP) Table A Contract amount." The IS/ND needs a more detailed description of TLWSD's and EWSID's contractual rights to receive SWP water supply and the proposed transfer of a portion of TLWSD's Table A water to EWSID, including the difference between the contractual rights to the 617 AF of water and the actual amount of water available to transfer in any given year. This context will help to explain the whole of the action to provide information that may be needed for impact analyses.

Quantity of Water

Each SWP water supply contract, including TLWSD's and EWSID's respective contracts, specifies the amount of SWP water that each SWP contractor receives. The contractors receive SWP water primarily based on the amount listed in "Table A" of their contract, which is the

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maximum amount of such water that a contractor may request for delivery in a year. The IS/ND should clarify that the proposed transfer of a portion of TLWSD's Table A water to EWSID could result in actual water transfer of up to 617 AF of Table A water per year for the duration of the current SWP contract term through 2085.

The amount of SWP water actually delivered each year varies depending on hydrologic conditions, regulatory requirements and restrictions, SWP operating criteria, and other factors affecting the amount of water available. In any year in which there may occur a shortage in the supply of SWP water available for delivery to the contractors, DWR allocates the available supply in proportion to each contractor's Table A amount. Accordingly, the proposed permanent transfer of TLWSD's 617 AF of Table A contract amount to EWSID shall not be interpreted to mean that each year the Department will be able to make that amount of water available to EWSID. Depending on the SWP allocation for a particular year, the actual water amount associated with the transferred Table A amount could be much lower than 617 AF.

In addition to their Table A water, the SWP contractors may request delivery of Interruptible Water as defined under Article 21 of their water supply contracts. The amount of Interruptible Water that can be allocated to a contractor is made in proportion to that contractor's Table A amount. Therefore, the proposed permanent transfer of 617 AF of TLWSD's Table A water to EWSID also involves the associated right to the SWP's Interruptible Water, which in certain years under certain conditions may allow delivery of more than 617 AF of water to Empire associated with the 617 AF of Table A contract amount. Because these variations in water availability will dictate the amount of water this proposed Project is able to transfer, the difference between the proposed permanent transfer of 617 AF of SWP Table A Contract amount each year and the actual amount of water available for transfer needs to be explained in the project description and include that information in the appropriate impact analyses.

Source of Water

On page 2-2, the project description states that "the lands within TLBWSD would continue to be farmed after the transfer, utilizing a combination of other local water supplies." The IS/ND needs to identify the other local water supplies in the project description and include that information in the appropriate impact analyses, because using other local water supplies as a substitute for the transferred water may have a potential for resulting in either a direct physical change or a reasonably foreseeable indirect physical change in the environment. Adding this additional information to the IS/ND is needed to describe fully the whole of the action and to assist with a better understanding of the scope and implications of the proposed Project.

4.7 Geology and Soils and 4.10 Hydrology and Water Quality

As the IS/ND acknowledges at page 4-13, the proposed Project is in a region that experiences severe subsidence. Groundwater pumping has long been understood as the primary cause of subsidence. The effects of subsidence include, among other things, damage to infrastructure and lasting damage to groundwater aquifers and ecosystems. The IS/ND concludes, based on the fact that the project would not involve any construction or any significant changes in agricultural operations, that the proposed Project would not have

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any subsidence-related impacts (see Impact 4.7(c)) and would not conflict with sustainable groundwater management of the basin (see Impact 4.10(b)).

The impact analyses for these geology and soils impacts and hydrology impacts are not adequate. The IS/ND should provide information on where the substitute water will come from to support continued farming operations within TLBWSD's service area and whether that substitute water would include groundwater supplies and should analyze any potential environmental impacts of using substitute water supplies to support continued farming operations on TLBWSD's lands.

4.6 Energy and 4.8 Greenhouse Gas Emissions

In addition to potential subsidence-related impacts, the IS/ND needs to include an analysis of any energy or Greenhouse Gas Emissions impacts related to obtaining and using substitute water to sustain TLBWSD's continued agricultural activities (see Impacts 4.6 and 4.8).

4.19 Utilities and Service Systems

The IS/ND concludes there are no impacts to water supplies available to serve the project and reasonably foreseeable future development without any supporting information or analysis. The project description explains that the lands within TLBWSD would continue to be farmed after the transfer, utilizing a combination of other local water supplies. The IS/ND needs to substantiate the conclusion that TLBWSD would have sufficient water supplies available to serve the proposed Project and reasonably foreseeable future development during normal, dry and multiple dry years (see Impact 4.19(b)).

The Department appreciates the opportunity to comment on the IS/ND for this proposed permanent transfer. If you have any questions or need additional information, please contact me at Patrick.Luzuriaga@water.ca.gov.

Sincerely,



Patrick Luzuriaga, P.E.
SWP Contracts and Agreements
Division of Operations and Maintenance
CA Department of Water Resources