Feds Promise Big Ag Water That Isn't There

By Bill, Renee, March 2005

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The federal government has promised Central Valley agribusinesses it will increase the amount of taxpayer-subsidized irrigation water by 43 percent over the next 25 years, well beyond what the state's infrastructure can reliably supply, according to Bureau of Reclamation documents obtained by Environmental Working Group (EWG).

The documents show that the Bureau's contracts with Central Valley Project (CVP) water districts, which are currently being renewed, promise an additional 1.5 million acre-feet of water a year — water that can't be supplied without costly new dams or severe damage to fish and wildlife, and will set up the districts to reap windfall profits by reselling water at much higher prices. In blatant disregard of federal law, the contracts, which will tip the balance of power in the state's water wars to agriculture for the next 50 years, are being extended without consideration of the environmental impacts of storing and delivering the extra water.

According to the documents, by 2030 the Bureau plans to deliver 5.1 million acre-feet of agricultural water a year to CVP water districts. Yet in a state where drought is a constant threat, the agency was able to deliver this much water only once between 1990 and 2003, and the average amount it was able to deliver in those years was 3.5 million acre-feet. (An acre-foot is the amount of water needed to cover one acre one foot deep — enough to supply two California households for a year.)

CVP water is heavily subsidized

The increased supplies promised in the contracts with 100-odd CVP water districts also mean a huge increase in the value of taxpayer subsidies to CVP recipients. In 2002, CVP water districts received 3.3 million acre-feet of irrigation water at rock-bottom prices, subsidized by federal taxpayers at a rate of $419 million a year based on the government's estimated cost of new water supplies from the San Joaquin River. If the Bureau had delivered 5.1 million acre-feet, as it promises for 2030, at the same rates, the value of the water subsidy could have been as high as $640 million.

It is impossible to estimate the value of the water supply in 2030 since rates are expected to increase by an unknown amount as the contracts are renewed, and may be adjusted from year to year. But even if the average CVP water rate were to double it would still be far lower than the water's market value. In 2002, CVP contractors paid an average of about $17 an acre-foot for their water, while the estimated cost for new supplies is about $170 an acre-foot.

The increased water deliveries are neither intended nor needed for agriculture: The total amount of cropland in the Central Valley decreased by almost 1 million acres between 1987 and 2002, while the amount of irrigated acreage was flat. The largest CVP contractor, the giant Westlands Water District, is getting a government buyout to take at least 34,000 polluted acres out of production, but has been promised more than 300,000 additional acre-feet of water by 2030. Rep. George Miller, the leading CVP watchdog in Congress, says the deliberate over-allocation of water in the contracts amounts to an "annuity" for farmers who plan to resell their water to thirsty Southern California cities.

As with the existing allocations of CVP water, the lion's share of the promised increases will go to the largest and richest water districts and agribusinesses. Of the seven CVP water districts that received, on average, more than 100,000 acre-feet of water a year from 1990 to 2003, all are slated to get increased supplies of 11 to 53 percent, accounting for 41 percent of the additional water. Westlands, which serves 9 of the 10 largest farms in the CVP measured by water use, got about 720,000 acre-feet in 2002. The district has been promised more than 1.15 million acre-feet a year by 2030. That's 60 percent more than its current use, which was subsidized by taxpayers to the tune of $110 million a year at the replacement cost in 2002.

The rich get richer: Much of the extra water will go to a few big districts

Westlands Water District	755,635	1,155,393	53%	$110,000,000
Madera Irrigation District	155,394	198,280	28%	$19,900,000
Lower Tule River Irrigation District	144,244	206,542	43%	$17,200,000
Arvin-Edison Water Storage District	135,553	188,528	39%	$9,410,000
Delano-Earlimart Irrigation District	123,105	144,410	17%	$19,000,000
Chowchilla Water District	121,361	155,800	28%	$14,400,000
South San Joaquin Municipal Utility District	109,155	121,000	11%	$15,900,000

Source: [1,23]
According to the Bureau's documents, the first big increase comes next year, when the Bureau's water deliveries are projected to jump to 4.5 million acre-feet — a 20 percent increase over 2005. After 2006, the Bureau's plan calls for increasing water deliveries 2 to 4 percent every five years.

Water has to come from somewhere

Where will the water come from? The Bureau doesn't say.

The Bureau of Reclamation and the state Department of Water Resources have completed preliminary assessments to build new dams and/or expand existing dams on the San Joaquin and Sacramento Rivers. But even if the most ambitious of these plans are approved, the completed projects on these two rivers would together yield less than 400,000 acre-feet of new water. The price for this water would be high: Not only are the construction costs estimated to be as much as $2 billion or more, but the proposed raising of the Shasta Dam on the Sacramento River would flood hundreds of acres of land considered sacred by the Winnemem Wintu Tribe. And even if these plans are approved, it would take years to make them a reality.

Proposals to increase capacity of the Central Valley Project

Major river affected	Proposed new reservoir site	Estimated new water supply (thousand acre-feet per year)	Total estimated construction costs ($ million)
Sacramento	Shasta Dam: 6.5 ft Raise	72	280
	Shasta Dam: 18.5 ft Raise	125 - 146	410 - 480
San Joaquin	Friant Dam Raise	25 - 150	150 - 840
	Fine Gold Creek	15 -115	200 - 540
	Temperance Flat: River Mile 274	95 - 225	610 - 1,000
	Temperance Flat: River Mile 279	95 - 235	510 - 1,750
	Temperance Flat: River Mile 286	95 - 190	410 - 790
	Yokohl Valley	70 - 100	350*

*Cost for a reservoir providing 70,000 acre-feet per year; costs for larger reservoir under development.
Source: [3,4]

Some of the additional water could come from a recently unveiled long-term CVP operation plan that would greatly increase pumping from the San Francisco Bay-Delta for use by agribusiness and municipalities, leaving less water for already devastated fish and wildlife populations. This already controversial document — known as the Operations, Criteria, and Plan (OCAP) — became even more controversial last October when the National Oceanic and Atmospheric Administration's fisheries office released a report concluding that OCAP would not impact threatened fish populations — a reversal from the conclusion of a previous draft. The change occurred only after the first draft was shared with the Bureau of Reclamation, prompting 19 members of Congress to call for an investigation into possible political interference. OCAP, if implemented, would increase diversions from the Bay and Delta by approximately 200,000 to 300,000 acre-feet a year.

Now that the Bureau has promised more water, a recent federal claims court ruling opens the door for farmers to sue if they don't get it. In December 2004, a group of San Joaquin water districts received a $17 million settlement from the Bush Administration after they sued the federal government for "taking" what they claimed was their private property. [Link to EWG Takings.] At issue was about 480,000 acre-feet of water the state Department of Water Resources kept in the San Joaquin River to protect the endangered Delta smelt and Chinook salmon during the drought of the early 1990s.

Despite the facts that under California law all water belongs to the people of the state, and that the districts only had a contract for an unspecified amount of this water, the farmers claimed the water was theirs and demanded compensation under the Fifth Amendment prohibition against the government taking of private property. The judge ruled in the farmers' favor — a mistake that Sen. Dianne Feinstein warned Attorney General John Ashcroft and Interior Secretary Gale Norton would "establish a precedent that could require the public to pay tens of millions of dollars to water users in many cases where even a small portion of their anticipated deliveries are needed to protect endangered salmon or other fish."

It was the first federal court ruling applying the Fifth Amendment to actions in compliance with the Endangered Species Act — a radical extension of the takings doctrine — but is not likely to be the last. A similar claim for $100 million was filed in 2001 by farmers in the Klamath Basin of Northern California and Oregon, whose promised water deliveries were reduced to protect endangered sucker fish and threatened Coho salmon. (Recently, West Coast fishermen were allowed to join the case on the side of the government, directly pitting fish against farming.) Now that the barrier has been breached, it is not hard to foresee CVP farmers suing if the Bureau doesn't deliver the water it has promised.

Lack of required environmental studies

Under the National Environmental Policy Act, the Bureau of Reclamation is required to assess the potential environmental impacts of the proposed renewed contracts, and consider alternatives to reduce harm. The Bureau has issued a series of draft Environmental Impact Statements (DEIS), ostensibly fulfilling its statutory obligations. Yet in a major — and illegal — oversight, the studies did not examine the impacts of delivering the amount of water the agency has promised by 2030.

In a January 25, 2005 letter from the Environmental Protection Agency (EPA) to the Bureau, the EPA says the Bureau's "environmental analysis is inadequate" because it is based on current deliveries of water, equal to only 50 to 60 percent of the amounts called for in the contracts. The EPA also said the Bureau's studies failed to consider the impact of increased water deliveries on water quality — a glaring omission, given that hundreds of miles of rivers and tens of thousands of acres of wetlands and estuaries in the Central Valley are impaired by agricultural pollution.

The Bureau assures its critics that none of the contracts will be executed until all environmental review requirements are met. But the Bureau and the water districts are moving quickly to lock in the contract terms for 25 to 40 years (often with automatic renewal for another 25 years.) On Feb. 25, 2005, the Bureau announced that it was nearing completion of negotiations with most CVP contractors and would begin signing the contracts; as of March 11, new contracts for about half of the CVP water supply had already been executed. If the Bureau considers the environmental impacts only after negotiating the contracts, were the impacts ever seriously part of the decision?

This unacceptable rush to sign the contracts will commit the federal government to delivery of water that doesn't exist, commit taxpayers to billions of dollars in construction costs and water subsidies, and commit California to a future in which most of its water is controlled by — and managed for the profit of — Central Valley agribusiness.

Recommendations

EWG urges Gov. Arnold Schwarzenegger and other California elected officials to call on the Bush Administration for an immediate moratorium on the signing of new CVP contracts until their impacts on water supply, water quality and wildlife are adequately considered and all legal requirements met. We also recommend:

- The Bureau of Reclamation must not be allowed to promise the delivery of more water than it can reasonably deliver.

- Farmers should not be allowed to resell the public its own water at a higher price. If farmers get more water than they need, it should be returned to the Environmental Water Account, a program to restore fish and wildlife habitat in the San Francisco Bay-Delta, at the same price the farmer paid. In return, farmers should receive a reasonable discount on the water they buy the following year.

CVP contracts should not include provisions for automatic renewal after 25 years. Such long-term provisions do not give the state sufficient flexibility to address changing water needs.