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March 6, 2023

Alex Henson
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Re: Interlake Tunnel and Spillway Modification Project Draft EIR

Dear Mr. Henson:

LandWatch Monterey County[1] offers the following comments on the draft EIR for the Interlake Tunnel project (ILT DEIR) released by the Monterey County Water Resources Agency (MCWRA).

LandWatch's substantive concern is to avoid a misallocation of resources that would impact disadvantaged communities in Salinas and the northern Salinas Valley and make it more difficult and costly to comply with the Sustainable Groundwater Management Act (SGMA).

The $200 million plus ILT project does not appear to be necessary to the sustainability of the southern subbasins, which may therefore be unwilling to participate in paying for it. Despite this, the modeling in the DEIR shows that the primary groundwater recharge benefits of the ILT and its assumed reservoir operations would be to the southern subbasins.

But it is the northern subbasins that need additional groundwater recharge. The Valley's scarce surface water and groundwater resources, and its equally scarce financial resources, should be focused on groundwater users facing the most severe sustainability challenges, i.e., the urban and agricultural groundwater users in the northern subbasins. Critically, these include disadvantaged and severely disadvantage communities and communities in need of affordable water for affordable housing.

[1] LandWatch has been an active participant in Monterey County Water planning, including planning for the Salinas Valley Groundwater Basin since the passage of SMGA in 2014. LandWatch has participated in the development of, and is now participating in the implementation of, the six Groundwater Sustainability Plans adopted by the Salinas Valley Groundwater Basin Groundwater Sustainability Agency.

Groundwater planning has long recognized that overdraft and seawater intrusion in the northern Salinas Valley should be addressed by moving available water north. Thus, the oft repeated remark that the water problem is not an issue of supply but of distribution. And, thus, the Groundwater Sustainability Plans (GSPs) for the northern subbasins adopted by the Salinas Valley Groundwater Basin Groundwater Sustainability Agency (SVGBGSA) assume that the SVGBGSA will coordinate its projects and management actions (PMAs) with MCWRA's reservoir operations and its implementation of the Interlake Tunnel in order to move more water north.

But the ILT DEIR does not discuss the substance of the GSPs, does not recognize the need to move water north, and does not address the need for MCWRA to coordinate the ILT and reservoir operations with the projects and management actions in the GSPs that depend on moving water north.

The DEIR's modeling results show that the bulk of the recharge benefits in the ILT's assumed reservoir operations would go to the southern subbasins. This is inconsistent with the northern GSPs' plans for reservoir reoperations to increase recharge to the northern subbasins. And it is inconsistent with the southern GSPs' conclusions that no projects or management actions are required to attain or maintain sustainability. The DEIR fails to acknowledge or address these inconsistencies, which violates CEQA.

The DEIR also fails to provide a sufficiently detailed description of the reservoir operations assumed for the project; fails to propose mitigation or an alternative to address the inconsistency with the GSPs; and fails to include the GSPs' projects and management actions in the assumptions for the cumulative conditions. These shortcomings also violate CEQA.

The DEIR should be revised and recirculated to correct these shortcomings. At minimum, it should

- Provide a description of reservoir operations that identifies the volumes of each type of release (e.g., conservation, flood, fish, etc.) for each month in each type of water year (e.g., dry, wet, normal). This information must have been available for modeling. It should be spelled out in the EIR itself.
- Identify the timing and amounts of the increased volumes of conservation releases (i.e., releases available for evapo-transpiration, recharge, and/or downstream diversions) that would be available due to the project.
- Acknowledge inconsistencies between the ILT project and the GSPs based on the failure of the ILT project that was modeled to implement the northern GSPs' emphasis on increased winter releases and their focus on providing additional recharge to northern subbasins.
- Either revise the project to make it consistent with the GSPs or propose mitigation or an alternative that would provide reservoir operations consistent with the management actions and project included in the GSPs.

- Identify the net increase in salvaged water from the ILT project and clearly identify assumed water rights constraints on releases.
- Provide a cumulative analysis that includes the projects and management actions in the adopted GSP.
- Provide adequate modeling information, including the monthly release information that underlies the hydrological analyses.

Detailed comments follow.

A. Groundwater planning has long recognized that overdraft and seawater intrusion in the northern Salinas Valley should be addressed by moving surface water north.

In 1946, through its Bulletin 52, DWR recommended construction of reservoirs and conjunctive use facilities using available groundwater storage capacity in the Forebay Subbasin. The purpose of the conjunctive use facilities would have been to support groundwater transfers to the north for in-lieu recharge to address overdraft and seawater intrusion in the Eastside and 180/400-Foot Aquifer Subbasins. Although the reservoirs were built, the transfer facilities to implement conjunctive use based on available groundwater storage capacity were not completed. The failure to provide effective facilities to move water to the north caused or aggravated a concern that the Basin-wide investments in water management projects have not been made effectively and equitably and/or that the existing infrastructure has not been operated effectively or fairly.

For example, a 1995 white paper prepared for MCWRA by group of ten hydrologists working in the Salinas Valley Groundwater Basin explains that the benefits of the San Antonio and Nacimiento reservoirs, the two major capital projects, have not been equitably distributed because the entire scope of the project has never been completed.[2] The white paper explains:

> The dams that were recommended have been constructed, but the companion transfer facilities have not been constructed. The result of partially completing the project has been an uneven distribution of benefits throughout the Valley. The Forebay Area and Upper Valley Areas have enjoyed relatively large benefits from San Antonio and Nacimiento reservoirs that would have been shared equally with the Pressure and East Side Areas if the intended transfer facilities had been built. In the absence of the transfer facilities, seawater intrusion into the Pressure Area and water-level declines within the East Side Area have not been mitigated.[3]

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[2] Hydrogeology And Water Supply Of Salinas Valley, A White Paper prepared by Salinas Valley Ground Water Basin Hydrology Conference For Monterey County Water Resources Agency, June 1995, pp. 15-16.

[3] Id., p. 16.

The dams enabled the alteration of land use in the mid-Valley region, bringing 37,000 acres of viticulture into production, which was perceived to have made the overdraft and seawater intrusion in the north worse:

> The favored solution to the problem was management of the flow of the valley's principal river to enhance percolation from the riverbed to the aquifer system. This would minimize overdraft and, theoretically, salt intrusion. With the construction of two dams at the far inland reach of the river, the problem was believed solved. One dam was constructed in the mid-1950s on the main river; the other was constructed on a principal tributary within a few miles of the first in the early 1960s (Fitzsimmons, 1983).
>
> This solution eventually proved to be problematic because of the unanticipated impact of the dams on land use in the valley. The dams provided a more reliable source of water in the middle and inland reaches of the basin. Vineyards were installed on 37,000 acres of bottomlands and benchlands, and new wells were drilled to irrigate them, producing a new demand for 55,000 acre-feet of water annually. Truck crop cultivation expanded to include 5,000 new acres, more than quadrupling the acreage farmed during World War II. By the mid-1970s, growers in these newly cultivated acreages were withdrawing proportionately larger amounts of water at a greater rate than those closer to the coast. Those closer to the coast had actually decreased their water use, but the depth to ground water in this area was nevertheless increasing. It was decreasing in the more inland area of the valley because of recharge from dam releases. Of course, salt intrusion continued to increase (Fitzsimmons, 1983).
>
> Substantial inequities were apparent. The dams were financed by ad valorem property taxes. Since growers in the coastal region and some of the midbasin areas had the most valuable land, they paid the largest share of the project costs. The taxing procedure also included urban landowners who were said to benefit from the economic well being of agriculture. The unforeseen development and use of water in the mid- and far-inland acres of the basin resulted in disproportionate benefits to growers in this area regarding tax contributions. Moreover, it did not improve and might have aggravated salt intrusion (Fitzsimmons, 1983).[4]

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[4] John Thompson and Robert Reynolds, Jr., Cultural Evolution and Water Management in the Salinas River Valley, Journal Of The American Water Resources Association, Dec. 2002, pp. 1668-1669.

Efforts to pursue the mid-Valley well field "collapsed at a public hearing in the spring of 1992 under the weight of contradictory testimony and resistance by many growers, particularly those in the vicinity of the proposed well field."[5]

Nonetheless, the 1995 white paper urged completion of the transfer facilities based on a mid-valley well field as proposed as the second phase of DWR's Bulletin 52 recommendation because moving water north remains the most effective and equitable sustainability path:

> With transfers, benefits would be distributed more uniformly throughout the Valley. Without transfers, the benefits would continue to be weighted toward the Forebay and Upper Valley Areas.[6]

However, instead of the well-field, MCWRA implemented two other projects, the Castroville Seawater Intrusion Project using recycled water for coastal in-lieu recharge, and the Salinas Valley Water Project, relying only on redistribution of surface water storage. The perception that burdens and benefits from these subsequent water management projects are inequitably shared persisted.[7]

Regardless of the equitable considerations, hydrologists have explained that addressing overdraft and halting seawater in the northern Valley is most effectively accomplished by restoring protective groundwater elevations to coastal aquifers. The 1995 white paper found that "[t]he only reasonable and effective solution for controlling seawater intrusion and overdraft in Salinas Valley is re-establishment of higher ground water levels by relieving pumping stresses in the aquifers in the Pressure and East Side Areas."[8] Hydrologists have estimated the necessary volumes of recharge or in lieu recharge, which could be furnished by moving water north. Yates found that halting the 71,000 afy of

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[5] Id., p. 1670.

[6] Hydrogeology And Water Supply Of Salinas Valley, A White Paper prepared by Salinas Valley Ground Water Basin Hydrology Conference For Monterey County Water Resources Agency, June 1995, p. 17.

[7] See, e.g., John Thompson and Robert Reynolds, Jr., Cultural Evolution and Water Management in the Salinas River Valley, Journal Of The American Water Resources Association, Dec. 2002, pp. 1670.

[8] Hydrogeology And Water Supply Of Salinas Valley, A White Paper prepared by Salinas Valley Ground Water Basin Hydrology Conference For Monterey County Water Resources Agency, June 1995, p. 14.

pumping between Salinas and the coast would suffice.[9] Geoscience found that providing 60,000 AFY of coastal pumping reduction would suffice.[10]

The 1995 white paper recommended that the water transfer to the north be made from a mid-valley well field via pipeline.[11] The SWRCB also endorsed conveyance by pipeline rather than via the river itself due to conveyance losses.[12]

However, increasing the water available to the north by minimizing conveyance losses can also be accomplished to some extent in the river channel itself by increasing winter releases and reducing summer releases. Winter releases convey proportionately more of conservation release water north to the Salinas River Diversion Facility (SRDF or rubber dam) than summer releases because when groundwater levels are elevated, as they typically are in winter, there is less recharge from the river to the areas that can be recharged, i.e., areas south of Chualar.[13] In short, the river is less "thirsty" in winter. Second, there is less evapotranspiration due to cooler temperatures and less growth of invasive riparian vegetation such as Arundo donax and tamarisk.[14] The SVGBGSA has

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9 Eugene Yates, Simulated Effects Of Ground-Water Management Alternatives For The Salinas Valley, California, USGS Water-Resources Investigations Report 87-4066, prepared in cooperation with the Monterey County Flood Control and Water Conservation District, 1988, pp. 75-78.

10 Geoscience, Protective Elevations To Control Sea Water Intrusion in the Salinas Valley, CA, 2013, p. 11, available at https://www.co.monterey.ca.us/home/showdocument?id=19642.

11 Hydrogeology And Water Supply Of Salinas Valley, A White Paper prepared by Salinas Valley Ground Water Basin Hydrology Conference For Monterey County Water Resources Agency, June 1995, pp. 16-17.

12 SWRCB, Salinas River Basin Investigation, Bulletin No. 19, 1956, pp. 219-220, available at https://digitalcommons.csumb.edu/cgi/viewcontent.cgi?article=1008&context=hornbeck_cgb_1.

13 Wood Environment & Infrastructure Solutions, Inc., Salinas Valley Operational Model Report, Interlake Tunnel and Spillway Modification Project, Monterey County, California, Updated February 2023, p. 3 [majority of recharge is to Forebay and Upper Valley subbasins; aquitard inhibits recharge to 180/400 subbasin; river does not traverse other subbasins].

14 SVGBGSA, 180/400-Foot Aquifer Subbasin Groundwater Sustainability Plan (180/400 GSP), Sept. 2022, p. 9-79, available at https://svbgsa.org/wp-content/uploads/2022/09/180400-2022-GSP-09292022.pdf.

determined that less than 10% of summer releases actually get to the SRDF.[15] The modeling for the ILT DEIR concludes that at most 6% of conservation releases, which it assumes to occur during the irrigation season, between April 1 and October 31, reach the SRDF.[16]

Thus, the Salinas Valley Groundwater Basin Groundwater Sustainability Agency (SVGBGSA) has explained that "[s]hifting reservoir releases from the summer to winter/spring may have groundwater recharge, decreased evaporation, and endangered species benefits, and could support other groundwater sustainability projects in the Salinas Valley."[17] The SVGBGSA explains that modeling of reservoir release scenarios is needed to "assess recharge and available diversion water."[18]

Indeed, as explained in the next section, shifting releases to winter is a key part of the proposed reservoir reoperations management actions in the northern subbasin Groundwater Sustainability Plans and of the Seasonal Release with ASR or Direct Use projects. Shifting releases to the winter would also be beneficial because it would "add more surface water in the river during the winter/spring, when environmental flow needs are the greatest."[19]

B. SGMA Groundwater Sustainability Plans include Reservoir Reoperation in coordination with the Interlake Tunnel and include Projects and Management Actions that depend on Reservoir Reoperation that increases winter releases and/or releases that can be used to recharge northern subbasins.

Pursuant to the Sustainable Groundwater Management Act (SGMA), the Salinas Valley Groundwater Basin Groundwater Sustainability Agency (SVGBGSA), in conjunction with three other Groundwater Sustainability Agencies (GSAs), has adopted Groundwater

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15 180/400 GSP, p. 9-78.

16 Wood Environment & Infrastructure Solutions, Inc., Salinas Valley Operational Model Report, Interlake Tunnel and Spillway Modification Project, Monterey County, California, Updated February 2023, pp. 19-20, 30, 39-40.

17 SVGBGSA, Salinas Valley GSP Implementation Grant (Eastside Aquifer, Forebay Aquifer,Langley Area, and Upper Valley Aquifer Subbasins), Attachment 3, Application Work Plan, Budget, And Schedule, p. 10, available at https://svbgsa.org/wp-content/uploads/2023/01/att3_work-plan__sgmgrants_R2.pdf and https://svbgsa.org/wp-content/uploads/2023/01/att4_SGM_MpsSpprtingDcs.pdf.

18 Id.

19 Id.

Sustainability Plans (GSPs) for the six subbasins of the Salinas Valley Groundwater Basin, including the 180/400-Foot Aquifer Subbasin, Eastside Subbasin, Langley Subbasin, Monterey Subbasin, Forebay Subbasin, and Upper Valley Subbasin. These six GSPs reach different conclusions regarding the groundwater balance that largely determines whether these subbasins are experiencing groundwater conditions under SGMA's various criteria for groundwater sustainability, i.e., effects that are "significant and unreasonable" or "cause undesirable results" as described in Water Code § 10721(x). Undesirable results include seawater intrusion, chronic lowering of groundwater levels, reduction in groundwater storage, land subsidence, degraded water quality, and depletion of interconnected surface water. The primary cause of undesirable results for the overdrafted groundwater basins and subbasins subject to SGMA is the overdraft condition itself.

Generally, the GSPs for the Upper Valley and Forebay subbasins find that these two subbasins are not in overdraft.[20] Thus, although these GSPs identify various projects and management actions (PMAs) that might be undertaken should this condition change in the future, both GSPs conclude that no projects or management actions are needed now to mitigate overdraft or address undesirable results.

By contrast, the GSPs for the 180/400-Foot Aquifer Subbasin, Eastside Subbasin, Langley Subbasin, and Monterey Subbasin each identify undesirable results attributed to overdraft conditions, including seawater intrusion, aquifer depletion, and chronic lowering of groundwater levels. Each of the northern subbasin GSPs identifies a suite of PMAs to address these undesirable conditions and to prevent them from worsening.

Reservoir Reoperation, Winter Releases, And ASR Or Direct Use: Among the proposed PMAs for these northern subbasins are projects that would increase groundwater recharge directly, e.g., by providing surface water for infiltration or for injection via Aquifer Storage and Recovery (ASR) wells, or by providing surface or other alternative water sources for direct use, a form of "in lieu" recharge. These PMAs would require, or benefit from, operation of the San Antonio and Nacimiento Reservoirs so as to maximize the amount of surface water moved to the north for recharge.

For example, the 180/400 GSP includes both a management action and a capital project that call for moving more water from the reservoirs to the north in the winter. Management Action 4, Reservoir Reoperation, "consists of SVBGSA collaborating with MCWRA and other interested parties to evaluate potential reoperation scenarios that

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[20] SVGBGSA Forebay Subbasin Groundwater Sustainability Plan (Forebay GSP), January 2022, p. 9-44, available at https://svbgsa.org/wp-content/uploads/2022/04/Whole_GSP_Forebay_Report-Text-only-20220414.pdf; Upper Valley Subbasin Groundwater Sustainability Plan (Upper Valley GSP), January 2022, p. 9-45, available at https://svbgsa.org/wp-content/uploads/2022/04/Upper-Valley-Whole-GSP-Report-Only-20220414.pdf.

promote the sustainability of the 180/400- Foot Aquifer Subbasin."[21] Reservoir Reoperation "could be paired with potential capital projects" including the ILT and Spillway Modification (i.e., the project under review in this EIR) and/or Seasonal Release with ASR or Direct Delivery.[22] Project 7, Seasonal Release with Aquifer Storage and Recovery (ASR) or Direct Delivery is described as follows:

> This project entails modifying reservoir releases for the MCWRA's Conservation Program and SRDF diversions to store at least a portion of these releases during alternate seasons in the 180-Foot and 400-Foot Aquifers. This seasonal storage would reduce or eliminate the need for Conservation Program dry season releases and initial modeling shows it would increase annual carryover in the reservoirs, allowing for more consistent alternate seasonal releases. This alternate season release water would be diverted at the SRDF, treated, and recharged through ASR injection wells into an unimpaired part of the aquifer in the winter/spring and later extracted during peak irrigation season demands for use through the CSIP system. ASR is a critical component of this project because it enables summer releases for CSIP to be shifted to winter/spring releases; however, a benefits assessment will be done to assess differing levels of special benefits. As an alternative to direct injection for groundwater recharge, seasonal reservoir releases could be used for direct delivery for municipal supply within the Basin. Under direct delivery use, this water would act as in-lieu recharge by reducing the need for pumping from municipal wells, resulting in less groundwater demand when water is directly delivered. This project would require additional infrastructure."[23]

The 180/400 GSP explains that this project may have "specific requirements of reservoir reoperation for maximum benefit."[24]

The Monterey Subbasin GSP also includes, as Project R1, Seasonal Releases from Reservoirs.[25] The GSP describes a project that is similar to that described in the 180/400 GSP:

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21 180/400 GSP, p. 9-22.

22 180/400 GSP, pp. 9-22 to 9-23.

23 180/400 GSP, p. 9-23

24 180/400 GSP, p. 9-76.

25 Monterey Subbasin Groundwater Sustainability Plan (Monterey GSP), January 2022, pp. 9-22 to 9-23, available at https://svbgsa.org/wp-content/uploads/2022/04/Completed_Monterey-Subbasin-GSP_Chap-ES-10_wo_Appendices.pdf.

> This project entails modifying reservoir releases for the MCWRA's Conservation Program and Salinas River Diversion Facility (SRDF) diversions to maximize annual diversions at the SRDF. Reservoir release water will be diverted at the SRDF during winter/spring, treated at a new water treatment plant, and (1) injected through Aquifer Storage and Recovery (ASR) injection wells when not needed for irrigation, and later extracted during peak irrigation season demands for use through the CSIP system and/or (2) delivered directly to municipalities as supply augmentation. The winter/spring release and storage will reduce or eliminate the need for Conservation Program summer releases for CSIP and increase annual carryover in the reservoirs, allowing for more consistent annual releases.[26]

The Eastside GSP includes a similarly described program, Reservoir Reoperation, as Management Action F3.[27] Like the Reservoir Reoperation described in the 180/400 and Monterey GSPs, this management action "could be paired with" the ILT and Spillway Modification and/or Seasonal Release with Aquifer Storage and Recovery (ASR) or Direct Delivery, as well as other projects to be identified during GSP implementation.[28]

Irrigation Water Supply Projects and Winter Releases: Both the 180/400 and Eastside GSPs include projects that would store winter reservoir releases in the respective groundwater subbasins for subsequent summer extraction for irrigation.[29] The 180/400 project is intended to use either the river channel or other conveyances to move up to 3,000 AFY of stored groundwater:

> This project could supplement flows to the existing Diversion Facility at times when instream flows are insufficient to meet SRDF diversion and/or environmental flow requirements. This project could also be combined with various conveyance schemes to deliver the produced water to groundwater deficit areas in other parts of the 180/400-Foot Aquifer and/or Eastside Subbasins to offset coastal pumping and seawater intrusion. (180/400 GSP, p. 9-83.)

These projects depend on sufficient winter releases from the reservoirs:

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[26] Monterey GSP, pp. 9-22 to 9-23.

[27] Eastside Subbasin Groundwater Sustainability Plan (Eastside GSP), January 2022, pp. 9-86 to 9-90, available at https://svbgsa.org/wp-content/uploads/2022/04/Eastside-Whole-GSP-Report-Only-20220414.pdf.

[28] Eastside GSP, pp. 9-86 to 9-87.

[29] 180/400 GSP, pp. 9-82 to 9-83 [Project P8, Irrigation Water Supply Project]; Eastside GSP, pp. 9-38 to 9-39 [Project C1: Eastside Irrigation Water Supply Project].

> This project relies on the ability to place extraction wells in an area of the southern 180/400-Foot Aquifer Subbasin where the Salinas Valley Aquitard is thin or discontinuous, thereby allowing the Salinas River to recharge at least some of the more productive aquifer zones during the winter, then extracting that water for delivery in the summer. The extracted water will create space in the aquifer for storage during winter flows, which are more readily infiltrated due to the enhanced gradient from pumping activities.[30]

CSIP Expansion: The Langley, Eastside, and 180/400 Subbasin GSPs each include a project identified as CSIP Expansion, which would expand the Castroville Seawater Intrusion Project (CSIP) into agricultural land to reduce the amount of groundwater pumped from the Subbasins.[31] CSIP is a form of in-lieu recharge that depends on surface or recycled water supplies to replace groundwater. One method to increase the SRDF water supply is Reservoir Reoperations to increase the amount of water moved north through the ILT project and/or Seasonal Release with ASR or Direct Delivery.

In sum, the GSPs for the northern subbasins make clear that additional projects or management actions are required to halt seawater intrusion and address overdraft. Regardless whether a solution transfers surface water or groundwater, many of the identified projects and management actions (PMAs) depend on moving water from the south to the north. Most of the PMAs that do move water from the south to the north depend on increased winter releases and would require changes to the current reservoir operations, and, as discussed below, changes to the reservoir operations apparently assumed in the ILT DEIR.

Preliminary cost estimates in the GSPs suggest that moving water from the south to the north to address overdraft and to restore protective elevations to halt seawater intrusion may be substantially less expensive on a per acre-foot basis than projects that do not move water between subbasins. For example, the Regional Municipal Supply/Extraction Barrier project proposed in the 180/400 GSP, which would not move water from the south, is much more expensive on an absolute and per acre-foot basis than water-moving projects. However, without the cooperation and coordination of MCWRA, the SVGBGSA, and stakeholders from multiple subbasins, water moving projects may not be feasible.

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[30] Eastside GSP, p. 9-38.

[31] Langley Subbasin Groundwater Sustainability Plan (Langley GSP), January 2022, Project C2, p. 9-40, available at https://svbgsa.org/wp-content/uploads/2022/04/Whole-GSP_Langley-Report-Only-20220414.pdf; Eastside GSP, Project D2, p. 9-56; 180/400 GSP, Project P4, p. 9-57.

C. Shortcomings of the ILT DEIR

1. The DEIR fails to provide an adequate description of the project and the environmental setting because it fails to describe reservoir releases seasonally and fails to describe the Groundwater Sustainability Plans or to disclose the project's inconsistencies with these plans.

Plan Inconsistency: If a CEQA analysis is based on inaccurate or incomplete setting assumptions, it is inadequate.[32] Furthermore, an EIR must disclose inconsistencies with applicable plans.[33] Here, the SGMA GSPs are clearly applicable plans because they govern the same groundwater resources the ILT project is intended to address.

The EIR fails to provide an adequate description of the environmental setting because it does not describe the GSP projects and management actions, which are the substantive heart of the GSPs and which ought rationally to be coordinated with the ILT project.[34] The EIR also fails to disclose what appear to be inconsistencies with the plans for reservoir reoperations in several of the GSPs.

In particular, the DEIR does not explain whether and how the reservoir operations that were assumed in the ILT DEIR hydrological modeling would affect the planned reservoir reoperations in the GSPs. Nor does the DEIR explain what assumptions it makes regarding the seasonal timing and uses of the increased conservation releases the ILT project makes possible, e.g., whether winter releases would be increased to address overdraft and seawater intrusion in the northern subbasins as proposed by several of the GSPs.

The DEIR's Table 2-10, Modeled Means Annual Reservoir Releases for the Proposed project Compared to Baseline and Tunnel-Only Alternatives, provides only annual mean data and therefore does not provide the seasonal timing of the increased conservation releases used to model groundwater benefits.[35] However, it appears that the conservation

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[32] 14 CCR (Guidelines), § 15125(c) [impact analysis must be made in full environmental context].

[33] Guidelines, § 15125(d).

[34] ILT DEIR, pp. 4.1-12 to 4.1-13 [Hydrology section discusses administrative structure of SGMA and GSP completion dates, but does not describe GSP PMAs]; *see also* ILT DEIR, p. 1-10 [one paragraph description of GSPs].

[35] Rough estimates of comparative monthly releases might be discernable from the flow exceedance probability data in ILT DEIR Appendices E and H, but this is not clear. In any event, it should not be necessary for the reader to parse data buried in an appendix to determine what an EIR is discussing. (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 442.) Furthermore, the

releases are not in fact consistent with the proposed emphasis on winter releases or at least not consistent with the provision of more surface water and recharge to the northern subbasins in the northern GSPs. The EIR's analysis of groundwater recharge changes to each subbasin indicates that the bulk of the additional recharge benefits from the ILT project and its assumed reservoir operations would go to the southern subbasins. The average recharge benefit to Upper Valley and Forebay totals 3,586 AFY whereas the average recharge benefit to the 180/400 and Monterey subbasins total only 1,125 AFY.[36] And the increased SRDF diversions don't make up the difference.[37]

Furthermore, the relatively large evapotranspiration indicates that the emphasis on summer releases is assumed to continue. The EIR models an 18,067 AFY increase in "conservation release to recharge/evapotranspiration above SRDF."[38] But the EIR projects only a 4,598 AFY increase in groundwater recharge via "net groundwater/surface water exchange along the Salinas River."[39] The rest must be going to evapotranspiration (e.g., Arundo and tamarisk).

The EIR's reservoir operations assumption, as reflected in its modeled recharge outcome, is inconsistent with the northern subbasin Groundwater Sustainability Plans because it would conflict with the proposed projects and management actions in the northern GSPs that call for increased winter flows and increased recharge of northern subbasins.

Furthermore, as a policy matter that may affect project feasibility, the EIR's assumptions regarding releases and its modeled recharge outcome may not represent cost effective management of the surface water resource. Given the projected $14 million annual debt

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DEIR's claim that Table D-7 somehow permits seasonal release comparisons (ILT DEIR, p. 4.3-100) is inexplicable because Appendix D and its Table D-7 provide only annual release data. Furthermore, there is only annual release data in the document the ILT DEIR references as "Monterey County Water Resources Agency (MCWRA) 2021a. Hydrologic Modeling Data Prepared for Interlake Tunnel Project EIR" (ILT DEIR, p. 8-43), which is presumably the data identified as "MCWRA 2021" in Appendix D, Tables D-5 through D-1. (See Wood Environment & Infrastructure Solutions, Inc., Salinas Valley Operational Model Report, Interlake Tunnel and Spillway Modification Project, Monterey County, California, Updated February 2023.)

[36] ILT DEIR, Appendix D, Tables D10, D11.

[37] ILT DEIR p. 2-69 [SRDF increase is only 1,228 AFY].

[38] ILT DEIR, p. 2-69, Table 2-10.

[39] ILT DEIR, Appendix D, Table D-11.

and O&M cost most recently projected for the ILT,[40], the modeled 4,598 AFY recharge benefit comes to $3,044 per AF. If the 18,067 AFY in additional conservation releases were made in the winter, or conveyed in a pipeline, the evapotranspiration would be less,[41] more water would reach the north where the overdraft and seawater intrusion abatement benefit from coastal area recharge would be much greater than the attenuated benefit from any increase in inland recharge. Pumping reduction, or "in lieu recharge," is much more effective in combatting seawater intrusion when it occurs close to the coast.[42]

Indeed, operating the ILT to provide additional recharge to the Upper Valley and Forebay subbasins, for which the GSPs conclude no additional projects and management actions are needed, is inconsistent with those plans as well. As a policy matter that may affect project feasibility, it may make no sense to provide additional recharge to a Proposition 218 territory that would not vote to pay for the ILT because there would be no cognizable "benefit" under Proposition 218 to an area that is already in hydrological balance.

The EIR provides an inadequate, entirely cursory discussion of Impact HWQ-5, i.e., whether the ILT would "Conflict with or Obstruct Implementation of a Water Quality Control Plan or Groundwater Sustainability Plan." (ILT DEIR, pp. 4.1-77 to 4.1-78.) The EIR concludes that because total annual recharge will increase, there is no conflict with the GSPs:

> The proposed project supports the goals in the GSPs by increasing groundwater recharge in the Salinas Valley, which may further serve to protect groundwater quality and halt or reverse seawater intrusion. As discussed under Impact HWQ-2, Impacts on Groundwater Supplies and Recharge, when all water years are combined, total annual groundwater recharge is anticipated to increase in aquifers underlying the Nacimiento River, San Antonio River, and the Salinas River under both the proposed project and the Tunnel-Only Alternative.[43]

But this rationale ignores the actual substance of the GSPs, some of which call for a focus on increased winter releases to increase northern subbasin recharge and some of which do not require any increase in recharge. Again, the EIR fails to appreciate that its potential

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[40] MCWRA, Interlake Tunnel and Spillway Modification Project, Progress Report, March 2022, March 2022 ILT [presentation to Board of Directors].

[41] 180/400 GSP, p. 9-79.

[42] Eugene Yates, Simulated Effects Of Ground-Water Management Alternatives For The Salinas Valley, California, USGS Water-Resources Investigations Report 87-4066, prepared in cooperation with the Monterey County Flood Control and Water Conservation District, 1988.

[43] ILT DEIR, p. 4.1-77.

misallocation of water resources through a seasonal release pattern inconsistent with the GSPs.

The DEIR's Appendix C, Consistency with Local Laws, Regulations, and Policies, purports to assess consistency with regional plans. It makes no mention of the six adopted GSPs. Even its Table 1, Consistency with Applicable Plans and Policies for Hydrology and Water Resources, makes no reference to SGMA or the six adopted plans.

The EIR must disclose its inconsistencies with the northern subbasin GSPs that call for increased winter releases and that include planned projects that depend on such releases because the inconsistencies implicate an environmental impact. Operating the reservoirs inconsistently with the GSP's plans for increased winter releases is a significant environmental impact because it frustrates those plans, fails to use the surface water resources to optimal effect, and permits continued overdraft and seawater intrusion in the northern subbasins.

Source of recharge to northern subbasins unclear: The Wood report documenting the modeling for the ILT DEIR acknowledges that there is limited or no direct recharge to the 180/400 or Monterey Subbasins from the Salinas River:

> The Salinas River runs down the length of the SVGB, and interacts strongly with the sediments of the basin. The Salinas River loses water to the basin aquifers along much of its length, representing the main source of recharge to the basin (e.g., Brown and Caldwell, 2015). The majority of these streamflow losses occur in the southern subbasins (particularly the Upper Valley Aquifer, and Forebay Aquifer subbasins). In the 180/400-Foot Aquifer subbasin, the Salinas River is largely separated from the underlying aquifers by the presence of the low- permeability Salinas Valley Aquitard in the shallow subsurface, which inhibits the percolation of streamflow into the main aquifers of this subbasin. The Salinas River does not run through the remaining subbasins.[44]

Given this conclusion, it is unclear how the modeling results project even the limited amounts of recharge to the 180/400 subbasin (1,112 AFY) and Monterey subbasin (13 AFY) shown in Table D-11.[45] If this recharge is actually a form of recharge from the Salins River, i.e., a form of "Net Groundwater/ Surface Water Exchange along the Salinas River," as Table D-11 is captioned, the DEIR should explain how this is consistent with the conclusion that there is limited or no direct recharge to the 180/400 or Monterey Subbasins from the Salinas River in the Wood report.

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[44] Wood Environment & Infrastructure Solutions, Inc., Salinas Valley Operational Model Report, Interlake Tunnel and Spillway Modification Project, Monterey County, California, Updated February 2023, p. 3; see also id, Appendix A, p. 20 [no streambed conductance north of SRDF].

[45] ILT DEIR, Appendix D, Tables D10, D11.

Inadequate Baseline and Project Description: In addition, the EIR fails to provide an adequate project description and description of the existing baseline. An EIR must describe a project in sufficient detail that "affected outsiders and public decision-makers [may] balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal (i.e., the "no project" alternative) and weigh other alternatives in the balance. An accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR."[46] Where an operational analysis of reservoir releases is needed to assess a project's impacts, the project and baseline operations must be sufficiently detailed to assess all downstream effects and they must be set out in the EIR itself.[47] The test of an adequate description is whether it "makes further analysis possible."[48]

Here, in order to support analysis of consistency with the GSPs, the EIR must provide a schedule of baseline and with-project conservation releases and other releases that is detailed by month, not just by year, and these releases should be separately specified for each type of water year (e.g., dry, normal, wet, etc.). Note that the California Department of Fish and Wildlife sought a clear outline of "assumptions and constraints" used in the hydrological model.[49] While some of the fish-related constraints have been outlined, the constraints related to consistency with GSP plans have not been identified. Nor has the EIR identified any constraints as to seasonal releases dictated by downstream water demand or water rights.

Appendices A and B of the Wood report discuss current and modified reservoir operations, explaining that some releases are dictated by reservoir conditions, e.g., flood releases, and some releases are dictated by downstream demand, e.g., conservation releases.[50] The modeling apparently assumes that all conservation releases for recharge and SRDF diversion would be made between April 1 and October 31.[51] This is not

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46 *County of Inyo v City of Los Angeles* (1977) 71 Cal.App.3d 185, 192; *see also* Guidelines, § 15124.

47 *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 955-957 [reservoir levels insufficient without details regarding timing of flows and how determined].

48 Id. at 954.

49 CDFW, letter to Robert Johnson, June 7, 2016, p. 7 (ILT EIR, Appendix B).

50 Wood Environment & Infrastructure Solutions, Inc., Salinas Valley Operational Model Report, Interlake Tunnel and Spillway Modification Project, Monterey County, California, Updated February 2023, Appendix A, p. 9.

51 Id., pp. 12, 20, and Appendix A, p. 16.

consistent with making winter conservation releases. The only constraints on conservation releases assumed is the need to attain and maintain minimum storage levels certain streamflows.[52] The modified (with project) operating assumptions do not alter these assumptions.[53] In sum, the modeling was apparently based on business as usual and makes no effort to address scenarios that would be consistent with the planned winter release regime in the GSPs.

The modeling assumptions and the DEIR also fail to address any constraints on conservation releases that might or might not be required to address claims by downstream users with overlying water rights. MCWRA is presumably aware that users in the southern subbasins have protested its amendments to Water Rights Licenses 7543 and 12624 that are part of the ILT project.[54] That protest seeks to ensure that there be no reduction of existing recharge to the Upper Valley and Forebay subbasins. As discussed below, the DEIR must explain whether this condition must be met and why, and how it would affect recharge to other subbasins and consistency with the northern GSPs.

Needed Analysis, Mitigation, and Alternatives: If, as appears to be the case, the DEIR's assumed conservation releases are not consistent with the winter-release-dependent projects and management actions in the GSPs, the EIR should amend the project description to make it consistent and should provide an analysis of conservation releases that is consistent. The amended release assumptions should specify releases by month for each type of water year and should be consistent with other release constraints, including downstream water rights constraints and the 2007 Biological Opinion or the expected HCP. The analysis of the hydrological impacts of the revised releases should show at minimum the recharge benefits to each subbasin compared to baseline conditions.

If, for some reason, the EIR choses that its preferred project description not be consistent with the winter-release-dependent projects and management actions in the GSPs, it should explain why. The EIR should then identify as a mitigation measure or as a project alternative a plan to concentrate the increased conservation releases made possible by the project in the winter and to support the PMAs in the norther GSPs, subject to other operative constraints on releases. The EIR should provide an analysis of that mitigation or alternative scenario that shows at minimum the recharge benefits to each subbasin compared to baseline conditions.

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52 Id., Appendix A, pp. 16-18

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53 Id., Appendix B.

54 Salinas Valley Water Coalition, Protest re Licenses 7543/12624, March 15, 2022.

We note that NOP comments sought analysis of alternatives that would optimize releases for fish passage and habitat.[55] An alternative should also be assessed that would optimize provision of surface water to the northern subbasins consistent with the implementation of the GSPs.

Furthermore, in identifying a conservation release schedule that optimizes winter releases consistent with the northern GSPs, the EIR should explain any constraints it is assuming regarding provision of recharge benefits to the Upper Valley and Forebay. If there is a water rights basis for the assumption that MCWRA must maintain existing levels of recharge, the EIR should explain this.

The EIR should also estimate the change in salvaged water that would result from the ILT project that could be made available as conservation flows and when those increased salvaged water flows could be released by month in the various kinds of water years. In effect, the EIR should identify MCWRA's flexibility in the timing of conservation releases because that flexibility may determine the extent of the consistency that can be attained with the winter releases assumed in the northern GSPs.

The EIR defines a significant impact as one that would "[s]ubstantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin."[56] Since neither the Upper Valley nor the Forebay subbasins are in overdraft or suffering undesirable results, the level of recharge that they currently enjoy may not be necessary to "sustainable groundwater management." Accordingly, the EIR should also explain and quantify what constitutes a reduction of recharge that would constitute a significant impact to a subbasin, i.e., one that would "[s]ubstantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin."

As noted, representatives of Forebay and Upper Valley stakeholders protested the proposed amendments to Water Rights Licenses 7543 and 12624 that are part of the ILT project, asking that any new reservoir operations must ensure that "recharge to the Upper Valley and Forebay is the same or greater than Nacimiento Reservoir operations without the Interlake Tunnel Project."[57] This conclusion is not dictated by the EIR's criteria of significance and is therefore not dictated by CEQA. If there is some other basis in law that dictates maintenance of existing levels of recharge, or some other level of recharge, to each subbasin, the EIR must explain this constraint.

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55 The Otter Project, letter to Robert Johnson, June 13, 2012 (ILT DEIR, Appendix B).

56 ILT DEIR, p. 4.1-59.

57 Salinas Valley Water Coalition, Protest re Licenses 7543/12624, March 15, 2022.

A bare showing that a proposed reservoir release plan would diminish existing recharge to the Upper Valley and Forebay subbasins in some measure, or would not increase it, is not sufficient to establish legal injury to downstream riparian and overlying water rights.

As a preliminary consideration, there would be no legal injury from denying downstream riparian or overlying rights holders the beneficial use of water that is salvaged by the project, i.e., water that would be wasted to the sea but for the increased storage and/or changed release schedule.[58] The EIR should provide some estimate of the change in salvaged water that would result from the ILT project.

Apart from considerations of salvaged water, a determination of injury depends on consideration of water use in other subareas of the Valley, not just the southern subbasins.[59] First, if the common supply of surface water and groundwater is insufficient to meet the needs of all correlative users, including users in both the northern and southern subbasins, then other uses and users must be considered to establish the scope of the water rights at issue in any particular subbasin. Clearly, the common supply is insufficient, so the needs of northern users must be considered in determining the rights of southern users.

Second, since rights are only to reasonable use, consideration of the competing uses in all subbasins is necessary to determine the reasonableness of use in any subbasin and therefore the extent of any possible injury.

Third, uses in other subbasins must be considered in order to determine whether the project itself causes an injury or whether an injury is due to other uses and users.

Finally, even if existing recharge levels do have to be maintained for some reason, neither CEQA nor water rights law require that existing recharge levels be increased in subbasins that are already in hydrological balance, especially where doing so would be inconsistent with the GSPs for other subbasins. The EIR must explain why it would make sense to increase recharge to the southern subbasins while failing to attain consistency with the northern GSPs that call for moving more surface water north.

In sum, unless, for reasons explained by the EIR, it is infeasible for legal or other reasons for a project, alternative, or mitigation measure to make the increased conservation

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[58] Salinas Valley Water Coalition v MCWRA, Monterey Superior Court No. 17CV000157, Report of Referee State Water Resources Control Board, January 2019, p. 33.

[59] Id., pp. 35-45; Salinas Valley Water Coalition v MCWRA, Monterey Superior Court No. 17CV000157, Decision On Exceptions to the State Water Resources Control Board's Phase 1 Report, June 14, 2019, pp. 13-14, 26.

releases enabled by the ILT project in a manner that is consistent with the GSPs for the northern subbasins, the EIR must propose and evaluate such a project, mitigation measure, or alternative.

2. The cumulative analysis is inadequate because it does not include the projects and management actions planned in the GSPs.

A cumulative impact analysis must identify relevant past, present, and future cumulative projects.[60] This environmental setting information is critical to cumulative impact analysis, which must consider the combined impacts from past, present, and future projects.[61]

The ILT DEIR entirely omits the GSPs from its setting description for the modeling of future cumulative conditions.[62] At minimum, the cumulative analysis should include the projects and management actions in these GSP that would result in changes to the current reservoir operations intended to move more water north, including

- Management Action 4, Reservoir Reoperation, in the 180/400 GSP
- Project 7, Seasonal Release with Aquifer Storage and Recovery (ASR) or Direct Delivery, in the 180/400 GSP
- Project R1, Seasonal Releases from Reservoirs, in the Monterey GSP
- Management Action F3, Reservoir Reoperation, in the Eastside GSP
- Project P8, Irrigation Water Supply Project, in the 180/400 GSP
- Project C1, Eastside Irrigation Water Supply Project, in the Eastside GSP
- The CSIP Expansion, identified as Project C2 in the Langley GSP, Project D2 in the Eastside GSP, and Project P4 in the 180/400 GSP.

3. Notice of preparation and scoping comments.

It is surprising that the EIR does not include scoping comments from the SVGBGSA or the other Groundwater Sustainability Agencies with jurisdiction over groundwater in the Salinas Valley Groundwater Basin, e.g., the Marina Coast Water District GSA and the

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60 Guidelines, § 15130(b)(1).

61 Guidelines, §§ 15355(b), 15065(a)(3), 15130(b)(1), (4), (5); *see Friends of the Eel River v. Sonoma Cty. Water Agency* (2003)108 Cal. App. 4th 859, 874-75 [incomplete setting description "fails to set the stage for a discussion of the cumulative impact"].

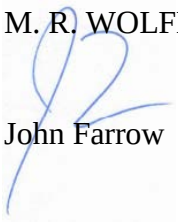
62 ILT DEIR, pp. 5-9 et seq. [identifying plans and projects assumed in cumulative analysis but omitting the GSPs].

Arroyo Seco GSA.[63] Because these GSA's have jurisdiction over the groundwater resources held in trust for the people of the State of California, MCWRA should have provided them with the Notice of Preparation (NOP), and they should have responded by specifying the scope of analysis related to that groundwater resource. (CEQA, §21080.4(a); Guidelines, §15082(a).)

Please confirm that MCWRA did in fact send the NOP to each of the GSAs in the Salinas Valley. Please provide the comments received from those GSAs. If there were meetings or consultations with any GSA regarding the scope of the EIR, please explain what guidance these GSAs provided regarding the scope of analysis.

Most sincerely,

M. R. WOLFE & ASSOCIATES, P.C.



John Farrow

JHF:hs
cc: SVGBGSA Board of Directors
Donna Meyers
Emily Gardner
Remleh Scherzinger
Michael DeLapa

[63] This may have been an inadvertent omission. Note that the Salinas Valley Water Coalition did provide scoping comments, but these comments were omitted from Appendix B.