

The Cadiz Water Project: Water, Jobs & Safe Use of an Existing Corridor

The Cadiz Valley Water Conservation, Recovery and Storage Project is a public-private groundwater project sponsored by Cadiz Inc. and the Santa Margarita Water District (SMWD) that will conserve and deliver a reliable water supply to 400,000 people in Southern California. The Project was reviewed and approved in accordance with the stringent California Environmental Quality Act (CEQA) and was found to have no significant impacts on the environment. These approvals were validated in court, at trial, and on appeal. The Project is widely supported by local communities and a bi-partisan group of elected officials, chambers, labor and agriculture.

To avoid impacts to the environment, the Project plans to construct its conveyance pipeline within an existing railroad right of way. In 2009, the U.S. Department of the Interior determined that the Project did not require federal permitting to utilize this right-of-way. However, in October 2015, after the CEQA permitting process was complete, the Bureau of Land Management (BLM), an Interior agency, reversed the 2009 determination and its long-standing policy concerning third party use of railroad rights-of-way, and opined that a federal permit was required before the project's pipeline could be built there. Last week, [a bi-partisan letter](#) sponsored by Rep. Tony Cardenas (D, CA-29) and Tom McClintock (R, CA-4), joined by 16 other congressional representatives from 8 states, requested the new Secretary of the Interior Department Ryan Zinke rescind the October 2015 guidance and find that the Project was properly within the scope of the railroad right-of-way.

Notwithstanding the broad bi-partisan support for the Project, the comprehensive administrative and judicial review and the calls for reversal of the BLM's evaluation, an opinion article posted by Senator Dianne Feinstein (D-CA) in the *San Bernardino Sun* on 3-8-17 perpetuates misconceptions about the Project and makes allegations of environmental harm that have been soundly and repeatedly discredited. Below please find responses to the common myths raised in the opinion piece.

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Environmental Impacts

The entirety of the Project has been thoroughly reviewed and approved in compliance with the California Environmental Quality Act (CEQA), our nation's strictest environmental law. The Project's Final Environmental Impact Report (FEIR) includes extensive watershed hydrological analysis (including independent peer review and independent verification by the Santa Margarita Water District as well as the County of San Bernardino), plus studies of impacts on plants, animals, springs, air quality, aesthetics, greenhouse gases, cultural resources (including tribal interests), and more. Additional studies were offered in support of the proposed findings that the Project would not cause adverse environmental impacts.

The Project was intentionally and carefully limited in size and scope to ensure against causing ANY adverse environmental impacts. The monitoring and mitigation measures developed in the FEIR are further supported by a comprehensive groundwater management strategy that imposes limits and conditions groundwater extractions to prevent "undesirable results"; the prevailing standard under the California's Sustainable Groundwater Management Act. The groundwater management plan limits the Project's groundwater use so that it maintains below-surface groundwater levels at levels with a 300 percent margin of safety. Moreover, the County and SMWD share independent rights to curtail or halt operations if there is a credible threat of harm.

San Bernardino Review and Approval

The Project's proposed extraction of groundwater was comprehensively reviewed and approved by San Bernardino County. In a lengthy and elaborate analysis undertaken over many months with the benefit of independent outside legal and hydrology experts, the County approved the extraction of groundwater for municipal and industrial use. It found that the water extracted by the Project would otherwise evaporate into the atmosphere under natural conditions. A Project that can conserve and capture more than a billion gallons of water each year was in furtherance of the California Constitutional mandate to avoid waste and optimize the use of our resources.

Judicial Review

Under California law, the County's approval of the Project and the adequacy of the environmental review were subject to judicial challenge. One law suit was settled conditioned upon an independent peer review finding that the impacts alleged by the Senator

were scientifically "impossible". Six other cases proceeded to trial in 2014 where they were decided entirely in favor of the County and SMWD and validated every aspect of the entitlement and review process. In 2016, the California Court of Appeal sustained these lower court rulings and upheld the Project's review and approval without exception.

Hydrology/USGS

The Water Project will exclusively capture and conserve groundwater that is presently lost to evaporation and high-salinity at the base of a 1,300 square mile watershed in the Mojave Desert. The watershed has been conservatively estimated to hold more than 20 million acre-feet in storage, approximately the size of Lake Mead, our nation's largest reservoir. The Project would conserve the water currently evaporating and supply it to people throughout Southern California. The hydrology of the groundwater system has been studied extensively and subjected to independent peer review by unpaid, independent hydrologists, as well as SMWD and experts independently retained by San Bernardino County. Estimates of the recharge rate for the watershed were completed using precipitation measurements, field work, geophysical data, the USGS desert watershed model, extensive additional modeling and geologic mapping. The adopted recharge rate was balanced with field measurements of evaporation secured through instrumentation placed on the dry-lakes which are the exit point of the system.

Unfortunately, the Senator's Op-Ed references a USGS study from 17 years ago made without the benefit of site-specific data and which is inconsistent with actual data measured on site. The National Parks Service (NPS) did not retain USGS or any other hydrology expert for its comments on 2012 project; it simply relied on the obsolete 17-year-old report, despite the contradictions in data and even though USGS subsequently published more site-specific models for desert environments that were used in the Project's hydrology studies.

Nevertheless, for the avoidance of doubt, the FEIR assessed potential environmental impacts assuming the recharge rate is 85% lower than predicted. But, even in this case, the evaluation demonstrated no significant impacts to the environment because of the physical properties of the aquifer, its size, and the extensive limits on Project operations. In the end, the subject was definitively addressed by the County when it placed a floor on groundwater levels in the aquifer. If recharge is less than predicted, the floor will protect against an unreasonable drawdown.

Against this background, it's important to note that the measured groundwater level at Cadiz is rising, even while actively using groundwater for farming. In dry 2016, the height of the drought, groundwater measured at its highest point in the past twenty years.

Project's Federal Nexus

The Project will be entirely constructed on private land owned by Cadiz Inc. that is actively farmed and within an existing railroad corridor, or right-of-way, that extends 43 miles from Cadiz to the Colorado River Aqueduct. In 2009 the U.S. Interior Department, following an inquiry from Senator Feinstein, opined that the Project and its proposed use of an existing right-of-way had no federal nexus and required no federal permits. Therefore, the Project did not undergo federal review, but did conduct an extensive state and local permitting process that included comments by federal agencies and received all necessary state and local permits under CEQA.

In November 2011, again following an inquiry by Senator Feinstein, the Interior Department's Solicitor opined that all 3rd party uses of railroad right-of-way that further, "in part," a railroad purpose are within the scope of the right-of-way and require no additional review, citing the example of a fiber optic cable with one strand dedicated to railroad purposes as being beneficial in part. Co-location of utilities along railroad tracks limits disturbance of untouched lands and is a policy promoted by states throughout the West.

The Cadiz lease agreement with Arizona and California Railroad required the provision of railroad benefits by Cadiz to the railroad. Consequently, as a part of the Project, Cadiz will install more than \$13 million in railroad improvements that benefit railroad operations such as automated fire suppression and in-line hydropower for transloading operations. Yet, in 2015, the BLM California office reversed the 2009 Interior letter and stated that the Project now needs a federal permit on the basis of another new standard that the primary purpose of the Project must further railroad purposes; deciding without public hearings or input that furthering a railroad purpose "in part" was no longer enough.

BLM Decision & Precedent

The BLM October 2015 Guidance is generally acknowledged to be contrary to law and policy and widely opposed by members of Congress. There is 150 years of historical precedence for third party use of railroad right-of-way for co-location; a smart public policy and BLM's new view of railroad right-of-way use impacts thousands of miles of existing railroad right-of-way use. Via Freedom of Information Act documents and communications revealed in the press involving short selling, it appears this decision was made not

to defend the environment but a result of an agency bias against the Project. The decision is presently under investigation by the House Oversight Committee and the Interior Department's Inspector General. On March 1, 2016, a bipartisan group of Congressional Members from 8 States wrote to the new Secretary of the Interior, BLM's parent agency, requesting that he rescind the October 2015 evaluation and replace it with a finding that the Project is within the scope of the right-of-way. ([LINK](#)).

Project Support v. Opposition, Tribes

Support for the Project and its water supply and economic benefits stretches far and wide across government, business, academic and NGO sectors. Tens of thousands of California residents and individuals concerned about California's water challenges have also voiced their support. A list of the current project supporters is available at: <http://cadizinc.com/projectsupport/> The Cadiz Water Project will create and support 5,900 jobs in San Bernardino County. At least 50% of those hired will be San Bernardino County residents, at least 10% will be U.S. armed services veterans. The Project will also create nearly \$1 billion in economic activity. And, the Project is funded with private dollars, not any government funding.

Environmental groups voiced concerns about the Project during the public review process and by filing litigation in the Courts. The Project incorporated an extensive groundwater management plan, described above, to address any and all concerns. The Courts upheld this management plan and the entire environmental review against all challenges.

There are no Indian Trust Assets in the Project area and no tribal lands will be crossed by the Project pipeline. The Project footprint will not impact any tribal lands and the buried pipeline will be constructed in an existing railroad corridor to insure it doesn't create any new footprint or viewshed impacts.

We share with all tribal interests a dedication to promoting and protecting the area's rich history. We are committed in coordination with the San Diego Zoo to operating the largest Desert Tortoise preserve in California and to operating a tourist base big-steam train experience along the Arizona and California railroad line. Nothing Cadiz and SMWD are proposing and that the County of San Bernardino has approved will have any adverse impact on scenic, cultural or environmental resources.

Water & Jobs in Southern California

The Project would make available a reliable local water supply for 400,000 people and new groundwater storage opportunities in Southern California in accordance with a Court-approved management plan and without adverse environmental impacts. The Project also promises significant local economic benefits, including jobs for veterans, laborers and the building trades, and nearly a billion dollars in local economic stimulus. It will be privately financed and will create a [\\$6 Billion savings benefit](#) to water rate payers over its 50 years. No single solution will solve our State's water challenges, but the Cadiz Project is precisely the type of water project we need in California to address the state's hydrological variability, climate change impacts and infrastructure needs.

Cadiz Inc.