



December 11, 2018

Charlton H. Bonham, Director
State of California Natural Resources Agency
Department of Fish & Wildlife
PO Box 944209
Sacramento, CA 94244-2090

RE: REGARDING CA DEPARTMENT OF FISH & WILDLIFE PROCESSING OF STREAMBED
PERMIT APPLICATIONS FOR CADIZ WATER PROJECT

Dear Director Bonham:

Thank you for your letter dated December 4, 2018 regarding the Cadiz Valley Water Conservation, Recovery and Storage Project ("Water Project"). We understand that preparers of the environmental review for the Water Project conducted a conference call with your staff in April 2018 to discuss future applications that may be filed with the California Department of Fish & Wildlife ("CDFW") under the Land and Streambed Alteration program ("LSA") program. This call was conducted as a customary courtesy well in advance of filing any application to prepare CDFW for any future application, but also to establish a line of communication in advance of the Fenner Valley Water Authority's ("FVWA") filing of such applications.

I appreciate you bringing to my attention your concerns about studies of the Mojave Desert environment that were initiated after the certification of the Final Environmental Impact Report ("FEIR"), the independent review and approval of the groundwater management plan for the Project by the County of San Bernardino¹ and the conclusion of six trials and appellate proceedings in California's Courts. Having failed to convince an independent judiciary of their claims, opponents have continued to fund studies, which you cite in your letter, that we believe are intended to cast doubt on the FEIR, the County approval and the judicial findings to further political objectives.

So that they are aware of your concerns, we have forwarded your letter to the FVWA, the Santa Margarita Water District ("SMWD"), which as you are aware is the Lead Agency for the Water Project, and the County of San Bernardino ("County"), which is the Responsible Agency that independently evaluated and conditioned groundwater withdrawals from the Water Project to avoid "undesirable results." However, the Courts expressly upheld the review and approvals of

¹ *Center for Biological Diversity v. County of San Bernardino* (Aug. 20, 2014) OCSC Case No. 30-2013-00633936, Statement of Decision at 5.

these agencies, which included that the groundwater review and mitigation and management standards employed by the County are consistent with California law and the legal and statutory requirements pertinent to groundwater management.²

Though your letter notes a body of available technical work, it emphasizes only opposition-funded studies regarding the Water Project without consideration for the Court-verified County groundwater management plan or the cited subsequent analysis that discredits them. Indeed, your letter appears to reflect bias and a pre-determination as to an outcome, which undermines any appearance of fundamental fairness on the part of CDFW and is incompatible with the dispassionate and objective review citizens expect from any CEQA analysis. We are concerned about this appearance of impartiality and trust that future evaluations will be conducted with the transparent objectivity that the law requires.

For context, the Cadiz Water Project is designed to actively manage the aquifer system underlying Cadiz's 35,000-acre private property in the Cadiz Valley, where we have farmed for 30 years, to stop a recurring loss of groundwater to salt contamination and evaporation.

The Project area is located at the base of a 1,300 square mile watershed (larger than Rhode Island) with a prolific groundwater aquifer that holds 17-34 million acre-feet in storage, more than Lake Mead holds today. Groundwater occurs well below the surface (at Cadiz it can be found in excess of 250 feet below the surface), and then ultimately drains to the Cadiz and Bristol dry lake playas, where it turns highly saline and evaporates up through the surface.

Plants and animals do not use or rely on the groundwater in Cadiz, as it is too deep and beyond the root zone of any plant in the area. And, on the Dry Lakes, where the groundwater is closer to the surface, the water quality is so hyper-saline (10 times saltier than the ocean) and corrosive, it is too dangerous for plants and animals to consume. There is no credible evidence in the exhaustive administrative record to the contrary.

It is true that springs do occur in the mountains of the watershed, where groundwater diverts to the surface on its way downgradient. However, the closest is Bonanza Spring – 11 miles away and 1,400 feet in elevation above the Water Project area. All other springs found in the watershed occur at even greater distance than Bonanza. The GMMMP provides for quarterly monitoring of the Bonanza Spring as an “indicator spring” and two other more distant springs in the watershed. Bonanza is a naturally occurring spring with flow that varies seasonally, separated from the valley floor by geologic faults.

Studies introduced during the preparation of the FEIR provided multiple hypotheses for the formation of Bonanza and other springs, and also considered their potential connection to Cadiz operations in the Valley below. Although there was no evidence establishing a connection between alluvial groundwater and the springs, SMWD and the County still required additional study and monitoring. In the end, for the avoidance of doubt and in a nod to the allegations of project opponents, the County imposed a floor on changes in groundwater levels (a level beneath which the groundwater cannot go) caused by project operations even though there was

² *Center for Biological Diversity v. County of San Bernardino* (2016) 247 Cal.App.4th 326, 332; *Delaware Tetra Technologies v. County of San Bernardino* (2016) 247 Cal.App.4th 352; *Center for Biological Diversity v. County of San Bernardino* (May 10, 2016, G051080)[nonpub. opn.]; *Delaware Tetra Technologies, Inc. v. County of San Bernardino* (May 10, 2016, G050881) [nonpub. opn.]; *Delaware Tetra Technologies v. Santa Margarita Water District* (May 10, 2016, G050869 [nonpub. opn.]); *Delaware Tetra Technologies v. Santa Margarita Water District* (May 10, 2016, G050864) [nonpub. opn].

no evidence of connectivity. With these measures in place, drawdown in the alluvial well-field cannot impact groundwater levels at the nearest spring.

Earlier this year, after studying the local geology and reviewing the opposition's claims of new evidence, ten reputable groundwater experts visited the Springs and the Project area and opined that a hydrologic interconnection between Bonanza Spring and the Project area posited by opposition studies was "impossible." I have included their summary as an attachment.

I would like to formally invite you to the Project area to undertake a tour of Bonanza Spring and the surrounding area led by Dr. Miles Kenney, the only geologist that has mapped the complex geology of the entire area. We are confident that a professional exercising reasonable and dispassionate objectivity in the field will understand that beyond a reasonable doubt there is no interconnection between groundwater that is produced on the valley floor and water levels in the Bonanza Spring. Regardless of what you have been told by opposition sponsored experts, we are committed to ensuring Bonanza and other desert resources are not adversely impacted by Project operations. The County of San Bernardino has included monitoring and mitigation conditions that reinforce our resolve.

Thank you again for sending us this letter expressing concerns, which will help inform any future streambed permit application. We fully expect that, as the Lead Agency for the Project, SMWD will thoroughly evaluate the points raised in your letter and address them as the public expects and the law requires.

Sincerely,

A handwritten signature in blue ink that reads "Scott S. Slater". The signature is fluid and cursive, with the first and last names being clearly legible.

Scott S. Slater

CEO & President

CC: Santa Margarita Water District
County of San Bernardino
Fenner Valley Water Authority