

VIA HAND-DELIVERY

March 20, 2018

Board of Directors
Oakdale Irrigation District
1205 East F Street
Oakdale, CA 95361

Re: Agenda for Board of Directors of the OID Tuesday, March 20, 2018
Item Nos. 13 and 14

Dear Directors Orvis, Altieri, Doornenbal, Santos and DeBoer,

These comments pertain to agenda items 13 and 14 regarding the proposed release and sale of water ("project"), which are pending before the Oakdale Irrigation District (OID) Board today. I believe these water sales would trade long-term water security for short-term gains.

The Project is not Accurately Described

I have the following concerns about the accuracy of the project, as described in the Agenda Report:

- The Agenda Report (Item #14) is incorrect that all local out of district demand has been met. There has been inadequate time and notice to determine and act on the extent of local demand. Local use of any excess OID water would provide greater local economic benefits, help address groundwater recharge and better safeguard OID water rights. In addition, OID has demanded 100% pre-payments for out of District water users while giving 60 day terms to buyers of "release" water.
- According to Bureau of Reclamation staff, the Bureau already has adequate water to meet April-May pulse flows required in the Biological Opinion. The proposed Agreement for Release of Water acknowledges this fact by stating that payments by DWR and SLDMWA "shall be based on actual flows released by USBR from Goodwin Dam in excess of the flow necessary to meet the April-May 'pulse flow.'" (Agreement, paragraph 7.) There is also no evidence that these releases are necessary to meet D-1641 or the 1995 Water Quality Control Plan.
- While the agenda materials refer to a "release", the fact that it is being released to be diverted by another entity actually makes it a transfer. The Financial Trend Data Table included in the Agenda Packet correctly labels these transactions as "Water Transfer

Sales.” (See Agenda Report, pdf page 80.) Normal rules governing transfers, including DWR’s Technical Information for Preparing Water Transfer Proposals (DWR White Paper) should be applied. These rules and policies help protect the community and environment.

Project is not Properly Exempt from CEQA

According to the Agenda Report and associated materials, the project would be categorically exempt from the California Environmental Quality Act (“CEQA”) under CEQA Guidelines section 15301, subdivision (i) it would provide flows to protect fish and wildlife resources with existing facilities. Under CEQA, an Initial Study is not required if the agency determines that the project is exempt from environmental review, and no exception applies. (Pub. Resources Code, §§ 21080, subd. (b), 21084, subd. (a); CEQA Guidelines, §§ 15061, 15300.2.) But if the “cumulative impact of successive projects of the same type in the same place, over time is significant,” an exemption does not apply. (CEQA Guidelines, §15300.2, subd. (b).) OID has been conducting these water sales since prior to 2015 according to the Financial Trend Data included in the Agenda Packet. These actions are substantially similar, and yet the cumulative environmental impacts have never been reviewed. Among other impacts, the project would cumulatively result in groundwater overdraft and other environmental impacts, as local farms within the Area of Origin served by OID are overlooked for water deliveries. (See Exhibit A, District Surface Water Use and Deep Well Production Update.)

Moreover, if there is a “reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances,” an exemption may not be used. (CEQA Guidelines, §15300.2, subd. (c); *Wildlife Alive v. Chickering* (1976) 18 Cal.3d 190, 206; *Pistorosi v. City of Madera* (1982) 138 Cal.App.3d 284, 285; *California Farm Bureau Federation v. California Wildlife Conservation* (2006) 143 Cal.App.4th 173 [even habitat creation activities and acquisition of conservation easements will require review under CEQA when there are potentially significant impacts].) Here, the project is part of a District strategy that does not put provision of local water supplies first including the City of Oakdale that has water quality problems, prior to selling water outside the area. This strategy leads to significant groundwater impacts, and negatively impacts local agriculture. In addition, the releases may have biological and other impacts that must be analyzed under CEQA.

To comply with CEQA, the District must prepare an Initial Study to determine the direct, indirect and cumulative effects the project would have on resources including but not limited to: groundwater, biological resources, agricultural; and fish and wildlife. An environmental impact report (“EIR”) is likely required to analyze the potential impacts associate with the project’s environmental impacts.

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I request that the District not approve today's agenda items, and that proper environmental review and permitting be conducted prior to consideration of any water transfers, abandonments or releases. Thank you for considering these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Frobose", written in a cursive style.

Robert Frobose