

Lloyd G. Carter: Westlands' drainage dilemma

By Lloyd G.
Carter

In a Sept. 20 editorial The Bee opined that a proposed settlement of the Westlands Water District federal lawsuit over farm drainage water was “a smart compromise” and “a fair deal for taxpayers, the environment and Westlands growers.”

Not everyone sees it that way.

Taxpayers for Common Sense, a national watchdog group, described the closed-door negotiations between Westlands and attorneys for the Departments of Interior and Justice this way:

“The Department of Interior did their best naive teenager impression when they negotiated a deal with Westlands Water District, who channeled their inner used car salesman. Not surprisingly, Westlands got a sweet deal while DOI turned Uncle Sam into Uncle Sucker. In the end, the government got little other than relieved of an empty threat, out several hundred million dollars, and promised to sell a ton of subsidized water for the next 50-100 years to a greedy group that could use it to grow crops, resell it, or whatever – all this in the midst of a record drought. Wow.”

North state members of Congress, commercial and recreational fishing groups, and virtually all environmental groups are calling it another example of Westlands' political muscle. How did it get to this point?

Back in the mid 1950s, federal engineers knew that western Valley subterranean clay layers blocked the downward percolation of irrigation water, and that shallow groundwater would become increasingly salty, making it eventually impossible to farm the land.

Faced with demands from the State Water Resources Control Board for tests to prove the drainage was safe, in 1970 Reclamation halted construction of a Westlands drainage canal to the Sacramento-San Joaquin River Delta at the Kesterson National Wildlife Refuge/Reservoir in Merced County, where 1,300 acres of evaporation ponds had been constructed. Fish and then birds began to die by the thousands and by 1983, federal biologists determined the culprit was selenium, a trace element that is highly toxic to fish at levels as low as two parts per billion. It turned out 300,000 acres of Westlands were laced with selenium and loaded with salts, heavy metals and trace elements.

In 1985, Interior Secretary Donald Hodel ordered the Kesterson ponds closed and water deliveries to Westlands were temporarily shut off. Since then, hundreds of millions of taxpayer dollars have been spent by Reclamation, Westlands, water districts, and other state and federal agencies seeking a solution to the drainage problem. No luck.

What are the keys to the settlement? The impression has been created that the settlement relieves Interior of the \$3.5 billion (upgraded from a 2007 Reclamation estimate of \$2.6 billion) price tag for a possible drainage solution. While it is true that Reclamation is under a court order to pursue a drainage solution, it has always been the case that Westlands would ultimately have to pay for a drainage system.

The settlement also asks that Congress approve a deal which gives Westlands relief from \$375 million in capital construction costs. There is no valid reason why Westlands should not have to pay its share for the federal water delivery system. In addition, Interior is also giving Westlands federal pumps, over a thousand miles of canals, a field office, and equipment, including the land underneath various structures – total worth tens of millions of dollars.

While Westlands officials say a small desalinization pilot plant looks promising, critics say it would take a massive reverse osmosis plant to service Westlands. And even if the salts can be economically removed from the water, where to put the mountain of salt?

Meanwhile Westlands' current "solution" is dumping selenium-loaded drainwater into the California Aqueduct at levels safe for humans but lethal for fish, with nary a peep from the state or regional water boards. Federal water districts north of Westlands have been dumping their toxic wastewaters in the lower San Joaquin River for decades, and are routinely granted 10-year exemptions from pollution control laws.

Officials of the U.S Fish and Wildlife Service and the Geological Survey say there are 300,000 acres of high selenium soils that should have been idled long ago at a buyout cost of \$1 billion. However, federal officials abandoned this view, allowing Westlands to only idle 100,000 acres, with some of that acreage idled more than a decade ago (i.e. the Broadview Water District).

Finally, Westlands' big victory is partially attributable to their spending millions of dollars on Washington lobbyists/consultants, particularly the Denver-based law firm of Brownstein Farber Hyatt and Schreck, which Westlands has paid \$20,000 a month to for years. A Brownstein partner, David Bernhardt, a former Interior Solicitor, was involved in the recent settlement talks and signed off on a controversial settlement costing taxpayers \$140 million with a group of Westlands growers in 2002.

The Congress must ultimately approve this settlement. Westlands lobbyists will be knocking on doors.

Lloyd G. Carter of Clovis is president of the California Save Our Streams Council. His website is www.lloydgcarter.com