Appendix A

Report on Public Scoping for EIS/EIR

Water Transfer Program for the San Joaquin River Exchange Contractors Water Authority, 2014–2038

Final
January 2013

The Bureau of Reclamation (Reclamation) and the San Joaquin River Exchange Contractors Water Authority (Authority) distributed a Notice of Preparation (NOP) of a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) on the Water Transfer Program for the San Joaquin River Exchange Contractors Water Authority, 2014–2038, on June 16, 2011, to 225 agencies and individuals. On July 6, 2011, a Notice of Intent (NOI) to prepare a joint EIS/EIR was published in the *Federal Register* (Volume 76, No. 129, pages 39436-39437). The NOP announced the public scoping meeting and requested that comments on the content of the EIS/EIR and the project be submitted by July 20, and the NOI in the *Federal Register* requested comments by August 10, 2011. Reclamation issued a press release on June 29, 2011 to announce the upcoming NOI and public scoping meeting. Furthermore, notices were placed in two newspapers of general circulation in the project area: the *Modesto Bee* on June 22, 2011, and *The Los Banos Enterprise* on June 24, 2011. The scoping meeting was held on Wednesday, July 13, 2011, from 5:00 pm to 7:00 pm at the Miller & Lux Building, 830 6th Street, Los Banos, CA. 93635.

This report summarizes the oral and written comments received during the scoping period. It lists the commenting agencies and individuals and summarizes the comments that affect the scope or content of the EIS/EIR. Summary minutes of and attendance at the scoping meeting are included as Attachment A1. Written comments are included as Attachment A2. Also provided as Attachment A3 is the letter from the State Clearinghouse acknowledging receipt of the NOP and distributing it to selected state agencies.

Oral Comments

The following members of the public participated in the scoping meeting on July 13, 2011: Lance Johnson, Madera Irrigation District; John Beam, Grassland Water District; and Steve Ottemoeller, Friant Water Authority. Oral comments were provided by Mr. Ottemoeller and are summarized below:

- What type of water is to be transferred under the Proposed Program: substitute supply and San Joaquin River water?
- What type of exchanges could occur under the Proposed Program?

Mr. Lance Johnson commented that Madera Irrigation District wanted to participate in the Program.

Written Comments

The following agencies, organizations, and individuals provided written comments during the scoping period; those organizations' representatives also providing oral comment at the scoping meeting are noted in italics:

Federal Agencies

- U.S. Department of Interior, Fish and Wildlife Service, Susan K. Moore
- U.S. Environmental Protection Agency, Region IX, Environmental Review Office, Communities and Ecosystems Division, Laura Fujii

- National Park Service, Partnerships Programs, Debbie Allen

State Agencies

- Department of Transportation, Office of Community Planning, Joshua Pulverman
- Native American Heritage Commission, Katy Sanchez
- State Water Resources Control Board, Division of Water Rights, Bay-Delta Unit, Anne Snider

Local and Regional Agencies

- Central Delta Water Agency, Daniel A. McDaniel
- *Friant Water Authority*, Ronald D. Jacobsma
- South Delta Water Agency, John Herrick
- Stanislaus County Environmental Review Committee, Raul Mendez

Organizations and Individuals

- San Joaquin Tributaries Association, Tim O'Laughlin

Written comments included in this section are those that affect the content of the EIS/EIR. They address a range of concerns about alternatives, potential impacts, and the scope of the analysis in the EIS/EIR. Some of the comments received were informational or directed to other related (or unrelated) projects and programs and policies of the lead agencies. These informational or other comments, i.e., those not related to the Proposed Program or related project that would be part of a cumulative impact analysis, are not repeated or summarized here.

2.1 General Comments

- How does the Proposed Program compare to the previous 10-year program?
- Identify approval process for the water transfers and/or exchanges
- Develop an approved monitoring plan

2.2 Project Alternatives

- Range of alternatives should consider curtailing water supply demand and desalination options
- Evaluate shorter term contracts
- Reduce transfer water to the wildlife refuges

2.3 Environmental Impact Analysis and Mitigation

- Evaluate impacts of tailwater recovery and other conservation measures
- Evaluate impacts of land fallowing: groundwater recharge, habitat modification, economy, greenhouse gases, crops elsewhere, and water supply
- Evaluate and quantify impacts to agriculture production as a result of temporary land fallowing and to other parties not involved in previous transfers
- Consider possible mitigation as giving agricultural use priority in the Proposed Program
- What is the potential for degradation of water quality in the San Joaquin River
- Evaluate the potential for impacts to San Joaquin River flows and fish, including SJRRP flows and efforts to restore salmon and steelhead
- Potential for impacts in combination with other foreseeable actions on water quality in the Grassland wetland supply channels and river
- Effects on rice acreage in the vicinity of the Grasslands area and giant garter snake
- Evaluate impacts to Mud Slough South and Salt Slough
- What are the impacts to the Delta water quality
- What is the impact of continued irrigation of the transferee area of use, including salt loads and drainage issues
- Analyze effects on groundwater and soil salinity
- Evaluate effects of applied tailwater with elevated EC levels
- Address consumptive use issues
- Describe the environmental and socioeconomic results of past annual transfers
- Address impacts to water supplies of other CVP contractors and need for Reclamation to deliver Exchange Contractors supply from San Joaquin River (via releases from Friant Dam)
- Consider changes to New Melones Reservoir operations
- Evaluate impacts to water right holders that are required to release water from east-side reservoirs to meet water quality objectives
- Address impacts to recaptured water SJRRP flows from storage of transferred water
- Monitor and comply with water quality objectives in 2006 Bay-Delta Plan
- Analyze compliance with SWRCB's Resolution 68-16 (commonly referred to as the SWRCB's 'Anti-Degradation Policy")

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Attachment A1

Public Scoping Meeting on July 13, 2011

25-Year Water Transfer Program, 2014-2038
Public Scoping Meeting Notes
Wednesday, July 13, 2011

The Water Transfer Program for the San Joaquin River Exchange Contractors Water Authority, 2014 to 2038 Public Scoping Meeting was held on Wednesday, July 13, 2011. The meeting was called to opened for presentation and public comment at 5:15 p.m.

The following parties were present: Steve Chedester, San Joaquin River Exchange Contractors Water Authority (Exchange Contractors); Joann White, Exchange Contractors; Chris White, Central California Irrigation District (CCID); Jeff Bryant, Firebaugh Canal Water District (FCWD); Randy Houk, Columbia Canal Company (CCC); Tim Rust, U.S. Bureau of Reclamation (BOR); Brad Hubbard, BOR; Erma Clowers, BOR; Susan Hootkins, Cardno Entrix; Lance Johnson, Madera Irrigation District; John Beam, Grassland Water District; and, Steve Ottemoeller, Friant Water Authority

Hand-outs included: Power point presentation, copy of Notice of Preparation (NOP), copy of Federal Register notice, sign in sheet, Comment Form, and Speaker Card.

The meeting began with Steve Chedester welcoming attendees and introducing Susan Hootkins, lead consultant.

Susan Hootkins provided a power point presentation outlining the current transfer program and the proposed 25-year document. Introductions were also provided by all in attendance. After her presentation, Ms. Hootkins opened the meeting for public comment.

Steve Ottemoeller asked if the water that is being transferred is CVP substitute supply. In response, Steve Chedester confirmed that it would be. Mr. Ottemoeller further questioned if the Exchange Contractors are receiving water from the San Joaquin River, would that water be used for transfers, and if so, will that be covered in the document. It was determined that all water will be covered under the transfer program.

Mr. Ottemoeller also asked if the Friant Water Authority contractors are covered in the document. Mr. Chedester confirmed that they are included; and, by referring to the large Project Area map displayed at the meeting, pointed to the area of the potential recipients which included Friant contractors.

An explanation was asked by Mr. Otemoeller of the potential exchanges that could take place under the transfer program. Mr. Chedester provided an example that could possibly take place as follows: in an agreement with Santa Clara Valley Water District involving
use of the San Luis Reservoir where water could be exchanged for operational flexibility. It was also asked and confirmed that an exchange could also be done with Kern County Water Agency.

Lance Johnson stated that Madera Irrigation District is interested in continuing to be a participant in the program.

With no further comments provided, the public meeting concluded at 5:45 p.m.

Attachment A2

Public Scoping Comment Letters

Federal Agencies

- U.S. Department of Interior, Fish and Wildlife Service, Susan K. Moore
- U.S. Environmental Protection Agency, Region IX, Environmental Review Office, Communities and Ecosystems Division, Laura Fujii
- National Park Service, Partnerships Programs, Debbie Allen

State Agencies

- Department of Transportation, Office of Community Planning, Joshua Pulverman
- Native American Heritage Commission, Katy Sanchez
- State Water Resources Control Board, Division of Water Rights, Bay-Delta Unit, Anne Snider

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- South Delta Water Agency, John Herrick
- Stanislaus County Environmental Review Committee, Raul Mendez

Organizations and Individuals

- San Joaquin Tributaries Association, Tim O'Laughlin

SCANNED

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825-1846

In Reply Refer To:
81420-2011-TA-0701

U.S. FISH & WILDLIFE SERVICE

JUL 2 2 2011

CODE	ACTION	SURNAME & DATE
410	✓	7/26/11

JUL 22 2011

To: U.S. Bureau of Reclamation, Mid Pacific Region, Sacramento, California (Attn: Mr. Tim Rust) / MP410

To: San Joaquin River Exchange Contractors Water Authority, Los Banos, California (Attn: Ms. Joann White)

From: Field Supervisor, Sacramento Fish and Wildlife Office Sacramento, California — Susan K Moore

Subject: Scoping Comments on the Notice of Preparation of a Draft Environmental Impact Statement/Environmental Impact Report for the 25-Year Extension of the San Joaquin River Exchange Contractors Water Authority's Water Transfer Program

The U.S. Fish and Wildlife Service (Service) submits these scoping comments on the proposed extension of the current 10-year water transfer program (Transfer Program) of the San Joaquin River Exchange Contractors Water Authority (SJRECWA) for a 25-year period (water years 2014 through 2038). We received your Notice of Preparation (NOP) of a Draft Environmental Impact Statement/Environmental Impact Report (DEIS/R) for this project from the SJRECWA and the U.S. Bureau of Reclamation (Reclamation) on June 20, 2011. The NOP notes that written responses must be sent no later than 30 days after the receipt of the notice.

The Service provides these comments and recommendations under authority of, and in accordance with, provisions of the National Environmental Policy Act (40 CFR Part 1500), and within associated guidance from the President's Council on Environmental Quality. Our focus in providing these comments is to assist Reclamation and the SJRECWA in their efforts to "...make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment" [40 CFR Part 1500.1(c)]. We are also providing comments pursuant to section 7(a) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.)(Act).

The DEIS/R will evaluate the annual development of up to 150,000 acre-feet per year (AFY) of substitute water from water conservation measures, including tailwater recovery, and temporary land fallowing. The developed water would be transferred to the San Joaquin Valley wildlife refuges and wetlands, to other Central Valley Project (CVP) contractors and/or

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to two State Water Project contractors for municipal and industrial and/or agricultural uses consistent with existing contract amounts.

Our primary concerns are related to: 1) effects of the Transfer Program on rice acreage in the vicinity of the Grasslands Area; 2) impact of the tailwater recovery component of the Transfer Program, when combined with other reasonably foreseeable actions, on water quality in the Grassland wetland supply channels and the San Joaquin River; and 3) effects related to other operational concerns. Additionally, because of the potential effects mentioned above that could impact habitats used by the federally listed giant garter snake (*Thamnophis gigas*), we are recommending that Reclamation initiate formal consultation for this action with the Service pursuant to section 7(a)(2) of the Act.

Discussion and Recommendations:

1) Potential Effects of the Transfer Program on rice acreage in the Grasslands Area. Since 1988 there has been a regional reduction in agricultural acreage planted in rice near the vicinity of the Grasslands wetlands. This impairs or obstructs connectivity of populations of giant garter snakes in the south Grasslands with other known populations (e.g., Mendota, Volta). For example, data from County of Fresno Annual Crop Reports show that the acreage planted in rice in Fresno County has declined by more than 60% since 1988 (Table 1, below) (crop reports available at: http://www.co.fresno.ca.us/DepartmentPage.aspx?id=33743). The most significant reduction in rice acreage has occurred since 2005. Available data suggest that the reduction in rice acreage may be related to the implementation of two separate transfer programs of the SJRECWA (a 10-Year and a 25-Year Program) that utilize in part land fallowing and changes in cropping patterns to free up water to be transferred to other CVP districts (USBR and SJRECWA 2007; USBR 2004). The acreage dedicated to growing rice in Fresno County is found predominately in the SJRECWA Service Area (i.e., Central California Irrigation District (CCID) and Firebaugh Canal Water District (FCWD)).

The draft Recovery Plan for giant garter snakes concluded that maintenance of rice cultivation is important to the continued existence of the species. In addition, the Recovery Plan proposes recovery tasks to protect rice lands, to develop methods to assure water deliveries to support giant garter snakes, and to develop programs to promote maintenance of historic cropping patterns that benefit the snake (USFWS 1999). As was noted in the Drought Water Bank and Environmental Water Account biological opinions (Service File Nos. 08-F-1596-1 and 03-F-0321, respectively), fallowing of rice fields reduces the amount and availability of habitat, including summer water for the snake. Fallowing results in diminished prey availability by reducing the amount of flooded rice fields that act as seasonal marshes to produce high numbers of tadpoles, frogs and mosquitofish. Effects associated with reduced available summer water and rice field habitat also include displacement of individual giant garter snakes from familiar habitat areas and result in giant garter snakes foraging over a wider area. Giant garter snakes may move to other areas of suitable habitat, but may encounter increased mortality from vehicles, predation, and human disturbance while migrating to new areas. Fallowing of rice fields will not only temporarily remove habitat, it will also have adverse effects on reproduction, recruitment, and survival of the snake that will

continue to affect giant garter snake populations well beyond the project time frame. The reduced habitat available and more widely dispersed prey and habitat resources will cause snakes to either be displaced or move over a much wider area to meet their habitat needs resulting in increased mortality from predation and roadkill and increased competition with other giant garter snakes for limited resources.

Table 1. Acreage in Rice Production in Fresno County Over the Past 20 years: 1988-2008 (from County of Fresno Annual Crop Reports)

Year	Acreage in Rice Production	Difference from 1988 Rice Acreage	Percent Change in Rice Acreage since 1988
2008	2800	-4,200	-60%
2007	2690	-4,310	-62%
2006	3590	-3,410	-49%
2005	5450	-1,550	-22%
2004	6600	-400	-6%
2003	5180	-1,820	-26%
2002	5790	-1,210	-17%
2001	5620	-1,380	-20%
2000	6160	-840	-12%
1999	5800	-1,200	-17%
1998	5800	-1,200	-17%
1997	5400	-1,600	-23%
1996	5800	-1,200	-17%
1995	6500	-500	-7%
1994	6200	-800	-11%
1993	7200	+200	+3%
1992	5700	-1,300	-19%
1991	5700	-1,300	-19%
1990	6200	-800	-11%
1989	6100	-900	-13%
1988	7000	---	---

Recommendation: The DEIS/R should evaluate the impact of the Transfer Program on the extent of rice acreage in Fresno and Merced Counties.

2) Effects of water transfer programs on water quality in the Grassland wetland supply channels and San Joaquin River. Several transfer programs (the SJRECWA 10-year Transfer Program and 25-Year Transfer/Groundwater Pumping Project and short-term groundwater exchanges and transfers) have been implemented since 2005 that can directly impact flow and indirectly impact water quality in the Grassland wetland supply channels and the San Joaquin River. Of particular concern is the effect of the Transfer Program combined with the effects of other projects on the achievement of water quality objectives and Total Maximum Daily Loads (TMDLs) in the Grassland wetland supply channels and the San Joaquin River.

San Joaquin River Exchange Contractors 10-Year Transfer Project (Service File No., 04-I-2162). In 2004, Reclamation finalized an EIS/R on the SJRECWA 10-year Transfer Program (SJRECWA EIS/R; USBR 2004). This program allows for the transfer of up to 130,000 AFY of substitute water annually to several potential agricultural, municipal and wetland users for a period of 10 years. The project has developed up to 130,000 AFY of water during non-critical years, with up to 80,000 AFY of water made available through conservation (including tailwater recovery) and groundwater (up to 20,000 AFY) and up to 50,000 AFY of water made available through crop idling/temporary land fallowing. During critical years, up to 50,000 AFY of water may be made available through crop fallowing, and no water is to be made available from conservation/tailwater recovery and groundwater resources. The proposed DEIS/R described in the NOP would extend this 10-year Transfer Program by an additional 25 years.

The Service is concerned that the 10-year Transfer Program has the potential to degrade water quality in the Grassland wetland supply channels by reducing the quantity and timing of tailwater discharges into those channels. Tailwater is surface drainage from the agricultural lands of the SJRECWA and is generally good quality and low in selenium. Functionally, tailwater can serve to dilute subsurface drainage discharges that are high in selenium in the Grassland wetland channels. Modeling the effects of the 10-year Transfer Program in the SJRECWA EIS/R predicted up to a 47 percent flow reduction in Mud Slough (South) and Salt Slough during the late spring and in dry and below normal water years. The largest reductions in flow were predicted to occur during April (36 percent) and May (47 percent) as shown in Table 6-5 of the SJRECWA EIS/R (USBR 2004). The Final SJRECWA EIS/R did not compare the frequency of such flow reductions between the "with project" and "without project conditions". The effect of reduced flows in Mud and Salt Sloughs on selenium concentrations in these channels was likewise not analyzed (Steve Leach, Senior Biologist, URS Corporation, pers. comm. 2006). The Service anticipates that a reduction of tailwater flows combined with continued selenium inputs in the Grassland wetland channels could result in higher selenium concentrations and potentially a greater frequency of occurrence of water quality objective exceedances in these channels.

A recent Grassland Bypass Project (GBP) monthly monitoring report for August 2009 documented elevated selenium concentrations in a Grassland wetland supply channel (Agatha Canal) associated with low flow conditions in that channel (Table 2; USBR *et al.*, 2010). These spikes in selenium concentrations in water from Agatha Canal were likely a result of continued unregulated discharges into the Grassland wetland channels combined with low flow conditions likely associated with effects of water transfer and groundwater exchange programs in the Grasslands vicinity that can reduce flows in the Grassland wetland channels. A more detailed description of these water transfers and exchanges is provided in the Grassland Bypass Project Biological Opinion (Service File No. 09-F-1036), Environmental Baseline Section, pages 107-111 (available at: http://www.usbr.gov/mp/nepa/nepa_projdetails.cfm?Project_ID=3513).

Table 2. Weekly water quality monitoring at Station K (Agatha Canal), July-September 2009.

See Table 27 for explanation of footnotes and agency abbreviations

PARAMETER	Flow			Specific Conductance	Selenium (total)	Boron
DATA SOURCE	SLDMWA[1]			CVRWQCB	CVRWQCB	CVRWQCB
UNITS	cfs			µS/cm	µg/L	mg/L
Jul-06-2009	15			716	1.9	0.7
Jul-13-2009	0			526	1.1	0.4
Jul-20-2009	0			621	1.1	0.5
Jul-27-2009	0			1,030	1.9	1.1
Aug-03-2009	0			2,460	4.8	3.8
Aug-10-2009	0			4,150	26.4	6.7
Aug-17-2009	0			1,560	2.7	2.7
Aug-24-2009	0			1,060	1.5	1.6
Aug-31-2009	80			970	2.3	0.9
Sep-08-2009	125			570	0.6	0.2
Sep-14-2009	165			570	<0.4	0.2
Sep-21-2009	175			610	0.6	0.2
Sep-28-2009	175			580	0.5	0.2

Note: The peak in selenium is caused by no flow conditions at this site.

Modeling of the effect of the preferred alternative in the SJRECWA EIS/R also predicted a reduction in flows in the San Joaquin River at Vernalis. These reductions were estimated to vary from 0 to 11 percent. During the late spring out-migration period for anadromous fish, flows were estimated to be reduced by 3 to 8 percent (Table 4-44 of the SJRECWA EIS/R). Summer flow reductions were estimated to be as high as 11 percent in July. Smaller (2 percent) reductions were predicted in the fall when salmonids begin to migrate upstream in the San Joaquin River. Reclamation determined these reductions in flow did not have a significant effect on the flow or water quality in the San Joaquin River because flow reductions were still within the range of inter-annual variations in monthly river flow as shown in Table 4-1 of that document (USBR 2004).

Spikes of selenium in water at Hills Ferry on the San Joaquin River, with water concentrations above existing water quality objectives were documented during August 2009 through January 2010 (Table 3). Elevated concentrations of selenium in the San Joaquin River could be problematic to efforts to restore salmon runs to the upper San Joaquin River ecosystem through the San Joaquin River Restoration Program.

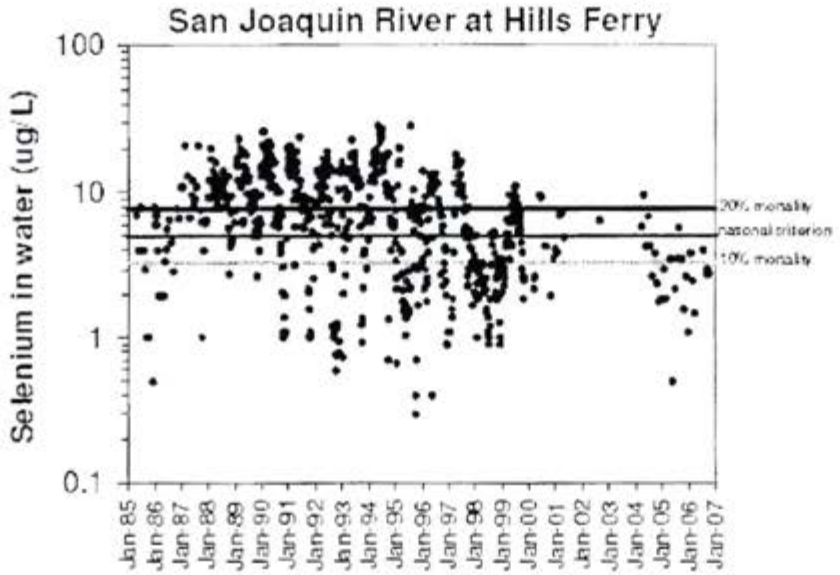
Table 3. Weekly water quality monitoring from the San Joaquin River at Hills Ferry, August 2009 through January 2010.

PARAMETER	Specific Conductance	Selenium (total)	Boron
DATA SOURCE	SLDMWA	SLDMWA	SLDMWA
UNITS	µS/cm	µg/L	mg/L
Aug-04-2009	1,280	1.0	0.7
Aug-11-2009	2,420	20.3	2.8
Aug-18-2009	1,270	10.5	1.0
Aug-25-2009	1,840	2.7	1.5
Sep-01-2009	1,380	1.7	0.8
Sep-08-2009	1,730	13.6	1.7
Sep-15-2009	2,910	29.0	3.0
Sep-22-2009	1,960	8.3	2.4
Sep-29-2009	1,970	2.6	1.4
Oct-06-2009	1,920	20.6	1.5
Oct-21-2009	2,810	32.2	1.9
Oct-27-2009	1,610	2.6	1.2
Nov-04-2009	1,720	9.7	2.0
Nov-10-2009	2,200	16.8	2.6
Nov-18-2009	2,020	23.0	1.5
Nov-25-2009	1,420	11.4	1.2
Dec-02-2009	1,640	10.2	1.9
Dec-09-2009	1,630	16.6	1.4
Dec-22-2009	1,740	17.5	1.5
Jan-12-2010	2,230	14.0	2.7
Jan-20-2010	2,230	52.0	2.5

Outside of normal range.

In an analysis of the effects of San Luis Unit selenium contamination on federally-listed species, Beckon and Maurer (2008) found that seepage and flood flows carrying agricultural drainwater from the San Luis Unit into the San Joaquin River may impact Chinook salmon and steelhead and could impair efforts to restore them to upstream reaches of this river. Central Valley Chinook salmon and steelhead are among the most sensitive of fish and wildlife to selenium exposure. They are especially vulnerable during juvenile life stages when they migrate and rear in selenium-contaminated Central Valley rivers and the San Francisco Bay/Delta estuary. Within the San Joaquin River its tributaries and sloughs which carry agricultural drainwater, concentrations of selenium in invertebrates, small (prey) fish, and larger predatory fish commonly reach levels that could kill a substantial portion of young salmon (Beckon *et al.* 2008). If juvenile salmon, on their downstream migration, are exposed to selenium-laden food items for long enough, salmon may bioaccumulate selenium to toxic levels. Based on existing water quality data for selenium in specific reaches of the San Joaquin River, as shown in figure 1 below, Beckon and Maurer (2008) concluded that there remains a substantial ongoing risk to migrating juvenile Chinook salmon and steelhead in the San Joaquin River.

Figure 1. Selenium concentrations measured in the San Joaquin River at Hills Ferry (data from the Central Valley Regional Water Quality Control Board).



San Joaquin River Exchange Contractors 25-Year Transfer/Groundwater Pumping Project (Service File No., 07-I-1580). In 2008 the SJRECWA and Reclamation implemented a 25-year transfer program involving up to 20,000 AFY by means of groundwater substitution and conservation/rotational crop fallowing. Based on the groundwater analysis of the Environmental Assessment/Initial Study (EA/IS) (Appendix A) the action includes a maximum groundwater pumping regime of 15,000 AFY. The groundwater-pumping project consists of up to 15 new wells (and 5 existing wells) located in FCWD and the Camp 13 area of CCID; adjacent to the CCID's Main and Outside Canals and the Delta Mendota Canal (DMC), and downslope of and adjacent to the San Joaquin River Improvement Project's drainage reuse area of the GBP. The groundwater is pumped from the upper aquifer above a depth of 350 feet (above the Corcoran clay) but below the drainage impaired shallow groundwater, blended with surface water deliveries into two CCID canals (Outside and Main) to ensure adequate water quality for irrigation needs, and then delivered downstream for agricultural use and refuge water supplies. The pumped groundwater is substituted for CVP surface water delivery primarily from the DMC (USBR and SJRECWA, 2007).

As noted in the EA/IS for this project, groundwater substitution (pumping groundwater in the drainage impacted area of FCWD and CCID) will likely reduce quality (increase total dissolved solids) of water delivered to Grasslands wetlands and refuges. As previously discussed by the Service, the effects of groundwater degradation and associated impacts to downstream refuge water quality were not adequately addressed in the EA/IS for this project. Further, this transfer program utilizes land fallowing or tailwater recapture and canal lining for up to 5,000 AFY which could have an added effect (beyond what was considered in the 10-year transfer program EIS/R) on reducing dilution flows in the Grassland wetland channels

resulting in further water quality degradation (increases in selenium, boron, and salt concentrations) in those waters (USFWS 2007).

Short-term transfers and groundwater exchanges (Service File No. TA-2010-0527). In 2009 and again in 2010, Reclamation proposed the approval of 1-year and 2-year (respectfully) transfers and groundwater exchanges of up to 20,500 AFY of CVP water from CCID to the transfer recipient districts San Luis, Panoche, Del Puerto and Westlands Water Districts that would be exchanged with well water pumped from within CCID and the transfer of up to 5,000 AFY of CVP water from FCWD to TRDs San Luis and Westlands Water Districts that will be exchanged with well water pumped from within FCWD. The groundwater would be pumped from CCID and FCWD from the upper aquifer, and above the Corcoran Clay layer, at a depth of between 180 to 240 feet, and blended with surface-water deliveries. For the CCID transfer, landowners would pump from up to 23 wells, interspersed throughout district into district conveyance facilities. For FCWD, landowners would pump groundwater from four wells directly into the Intake Canal and one well would discharge water directly into Mendota Pool near the Intake Canal. Some of the wells in CCID are located in the drainage-impacted area of the district; all of the wells in FCWD are located in a drainage-impacted area. The Proposed Action would free-up a commensurate quantity of water from CCID and FCWD supplies equivalent to the quantity developed from groundwater pumping.

Recommendation: The Service recommends that the SJRECWA and Reclamation consider this new water quality information from the GBP data reports in the DEIS/R. In addition, the DEIS/R should assess the effects of the Transfer Program cumulatively with other water transfers and groundwater exchange programs in the vicinity that can reduce the flows and degrade water quality in the Grasslands wetlands channels and San Joaquin River and impact compliance with water quality objectives. The DEIS/R should provide information and analysis on cumulative impacts of past and present and reasonably foreseeable future projects on achievement of water quality objectives and TMDLs in the Grassland wetland supply channels and the San Joaquin River. Specifically, the DEIS/R should compare the frequency of flow reductions in the Grassland wetland channels between the "with project" and "without project conditions". The effect of reduced flows in Mud and Salt Sloughs on selenium concentrations in these channels should also be analyzed. Further, the DEIS/R should analyze the effects of potential flow reductions in the San Joaquin River associated with the Transfer Program on compliance with water quality objectives (e.g., salinity and selenium), and on efforts to restore salmon to the upper San Joaquin River associated with the San Joaquin River Restoration Program.

3) Potential Changes to New Melones Operations Should be Considered. The Federal Circuit Court of Appeals issued a decision in 2009 that could further complicate efforts to meet salinity and selenium standards in the San Joaquin River (*Stockton East Water District v. U.S.*, 07-5142 available at: http://www.cafc.uscourts.gov/images/stories/opinions-orders/07-5142.pdf). This decision could result in changes to operations of New Melones Reservoir, including the quantity of water available from New Melones that is available to help achieve salinity objectives in the San Joaquin River.

In 1973, the State Water Resources Control Board (SWRCB) initially approved Reclamation's application for a permit to appropriate water from New Melones Reservoir, subject to twenty-five conditions and limitations. Among other things, the SWRCB mandated annual releases from New Melones of 98,000 acre-feet for fishery and wildlife purposes. The SWRCB also established water quality standards and estimated that annual releases of up to 70,000 acre-feet would be necessary to meet those standards. Taking into account these state-imposed requirements, Reclamation prepared a plan for operation of New Melones. As detailed in a 1980 report, Reclamation estimated that 180,000 acre-feet of water would be available annually for agricultural and municipal and industrial uses after other anticipated needs, including state-mandated releases for fishery and wildlife purposes and water quality, were satisfied. While Reclamation anticipated when it signed the 1983 contracts with Stockton East Water District and Central San Joaquin Water Conservation District that water quality standards mandated by the state would be attained with annual releases of 70,000 acre-feet from New Melones, significantly greater releases were necessary in later years to meet those standards. As the trial court found, "the ever-increasing imposition of additional obligations for salinity and fisheries water releases led to a clash of management objectives and priorities, the unpredictability of available water supply, and an inherent conflict between demands for consumptive use by plaintiffs and environmental concerns." Stockton, 75 Fed. Cl. at 338. Ultimately the changing priorities "required Reclamation to alter the manner in which it made operational decisions regarding the allocation of water to the Stockton East *et.al.* (Contracting Parties) pursuant to the 1983 Contracts." Id. at 338-39.

The Federal Circuit Court of Appeals ruled that the Districts and Reclamation have binding contracts for specified quantities of water which Reclamation is obligated to provide. The Court found that Reclamation failed to provide those specified quantities in the years at issue. The first defense raised by the U.S. Government, that Reclamation had implicit authority to reallocate the water in the New Melones unit in response to a change in law and policy, was found to not be a valid defense on this record. The second defense raised by the U.S. Government, that the shortages were the result of causes "beyond the control of the United States" such as to absolve it under the contract provisions, specifically Articles 9(a) and 12(d), again, with the exception of water years 1994 and 1995 (drought years), on this record failed for lack of proof.

Recommendation: The DEIS/R should evaluate potential changes in operations of New Melones Reservoir (associated with *Stockton East Water District v. U.S.*, 07-5142), combined with the continuation of the Grassland Bypass Project and its discharges to the San Joaquin River, and the Tailwater Recovery component of the proposed 25-Year Transfer Program on compliance with salinity and selenium water quality objectives in the San Joaquin River.

To assist with the development of an EIS/R for the proposed Transfer Program, we ask that the comments and recommendations from the previous correspondence listed below be considered. Copies of any of these documents can be made available upon request:

- Service comments on the Draft Environmental Assessment on the Transfer of up to 20,500 acre-feet of Central Valley Project Water from Central California Irrigation District to San Luis, Panoche, Del Puerto and Westlands Water Districts, and Up to 5,000 acre-feet of Central Valley Project Water from Firebaugh Canal Water District

to San Luis and Westlands Water Districts, DEA-10-12 (Service File No. 2010-TA-0527, dated April 9, 2010);

- The GBP Biological Opinion (Service File No. 09-F-1036, dated December 18, 2009);
- Service comments to the SWRCB on the San Joaquin River Selenium Control Plan Basin Plan Amendment (dated September 22, 2009);
- National Marine Fisheries Service comments to the SWRCB on the San Joaquin River Selenium Control Plan Basin Plan Amendment (dated September 22, 2009);
- Service comments on the Central Valley Regional Water Quality Control Board's March 2010 Draft Staff Report Concerning the Proposed Basin Plan Amendments to the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins to Address Selenium Control in the San Joaquin River Basin (dated May 9, 2009);
- Service comments on the GBP DEIS (dated March 23, 2009);
- Service comments on the Draft EA/IS for 25-Year Groundwater Pumping/Water Transfer Project for the SJRECWA.

We appreciate the opportunity to submit these scoping comments. If you have any questions or comments, please contact Mr. Mark Littlefield, Mr. Dan Russell, or Ms. Joy Winckel of my staff at (916) 414-6600.

cc:
Laura Fuji and Eugenia McNaughton, United States Environmental Protection Agency, San Francisco, CA
Rhonda Reed, National Marine Fisheries Service, Sacramento, CA
Theresa Presser, United States Geological Survey, Menlo Park, CA
Kim Forrest, U.S. Fish and Wildlife Service, San Luis National Wildlife Refuge Complex, Los Banos, CA
Rudy Schnagl, Central Valley Regional Water Quality Control Board, Sacramento, CA
Julie Vance, California Department of Fish and Game, Fresno, CA
Bill Cook, California Department of Fish and Game, Los Banos, CA
David Widell, Grassland Water District, Los Banos, CA

Literature Cited

Beckon, W.N. and T.C. Maurer. (2008). *Potential Effects of Selenium Contamination on Federally-Listed Species Resulting From Delivery of Federal Water to the San Luis Unit.* Prepared for the U.S. Bureau of Reclamation under Agreement # 05AA210003, by U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, Environmental Contaminants Division, Sacramento, CA. 46 pp.

Beckon, W. N., Eacock, M. C., and Gordus, A. G. (2008). *Biological Effects of the Grassland Bypass Project, January 1, 2004 - December 31, 2005.* Pages 93-167 *in* Grassland Bypass Project 2004-2005. Prepared by the San Francisco Estuary Institute, Oakland, CA. Available at: http://www.sfei.org/gbp/reports/Annual-Reports

[USBR] U.S. Bureau of Reclamation. (2004). *Water Transfer Program for the San Joaquin River Exchange Contractors Water Authority 2005-2014 Final Environmental Impact Statement/Environmental Impact Report.* Prepared for USBR Mid-Pacific Region, Sacramento and Fresno, and the San Joaquin River Exchange Contractors Water Authority by URS Corporation, Oakland, CA. 17 sections and 5 appendices.

[USBR *et al.*] United States Bureau of Reclamation, Central Valley Regional Water Quality Control Board, U.S. Fish and Wildlife Service, California Department of Fish and Game, San Luis & Delta-Mendota Water Authority, U.S. Environmental Protection Agency, and U.S. Geological Survey. (February 12, 2010). *Grassland Bypass Project Monthly Data Report, August 2009.* U.S. Bureau of Reclamation, Mid-Pacific Region, Sacramento, CA. Compiled and distributed by San Francisco Estuary Institute. Available at: http://www.sfei.org/gbp/reports/monthly

[USBR and SJRECWA] United States Bureau of Reclamation and the San Joaquin River Exchange Contractors Water Authority. (2007). *Final Environmental Assessment/Initial Study, Groundwater Pumping/Water Transfer Project for 25 Consecutive Years.* U.S. Bureau of Reclamation, Sacramento and Fresno, CA and the San Joaquin River Exchange Contractors Water Authority, Los Banos, CA. 7 sections. Available at: http://www.usbr.gov/mp/nepa/nepa_projdetails.cfm?Project_ID=2771

[USFWS] U.S. Fish and Wildlife Service. 1999. Draft Recovery Plan for the Giant Garter Snake *(Thamnopsis gigas).* U.S. Fish and Wildlife Service, Portland, Oregon. ix+ 192 pp.

[USFWS] U.S. Fish and Wildlife Service. (August 27, 2007). Comments on Draft EA/IS for 25-Year Groundwater Pumping/Water Transfer Project for the San Joaquin River Exchange Contractors Water Authority. Memorandum to Robert Eckart, U.S. Bureau of Reclamation, Mid-Pacific Regional Office, Sacramento, CA from Michael Hoover, Assistant Field Supervisor, Sacramento Fish and Wildlife Office, Sacramento, CA. 18 pp. and 3 attachments. Pages 8-25 of the Final EA, Comments and Responses. Available at: http://www.usbr.gov/mp/nepa/nepa_projdetails.cfm?Project_ID=2771

Personal Communications

Leach, S. (March 6, 2006). Senior Biologist, URS Corporation, Oakland, CA.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

JUL 26 2011

Mr. Brad Hubbard
Bureau of Reclamation
2800 Cottage Way, MP-410
Sacramento, California 95825

Subject: Scoping Comments for the San Joaquin River Exchange Contractors Water Authority's 25-Year Water Transfer Program 2014 to 2038, California

Dear Mr. Hubbard:

The Environmental Protection Agency has reviewed the Notice of Intent to prepare an environmental impact statement for the above action. Our review is pursuant to the National Environmental Policy Act, Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act.

EPA advocates sustainable water supply management which balances existing water supply with demand, and preserves and restores aquatic ecosystem services. Sustainable water use makes efficient use of currently developed water through conservation, use efficiencies, reuse, and recycling; manages ground water to avoid long-term overdraft and reduction in quality; encourages users to diversify water management strategies; and promotes compatible multiple benefits of water use (for example, productive agriculture and wildlife habitat). Voluntary water exchanges and transfers, which have no significant socioeconomic or environmental impacts, can increase the reliability of scarce existing water supplies and provide for flexibility in the allocation, management, and use of the water supply.

EPA submitted comments on the San Joaquin River Exchange Contractors Water Authority's 10-Year Water Transfer Program, 2005 to 2014. These comments, which are relevant to the proposed 25-year water transfer program, are incorporated by reference and enclosed. The Draft EIS (DEIS) should describe the environmental and socioeconomic results of past annual transfers and the 2005 to 2014 Water Transfer Program.

The NOI states that transfers may provide water for Bureau of Reclamation's Wildlife Refuge Water Supply Program. We encourage the project proponents to focus on ways in which the proposed water transfer program can benefit wetlands along the San Joaquin River. Additionally, given that the NOI lists land fallowing as one source of transfer water, we encourage the DEIS to explore ways in which fallowing could be encouraged in areas near the River where the direct and indirect effects of River flows, such as an increase in shallow groundwater, have conflicted with farming practices. The proposed alternatives and impact analysis should examine the potential for complementing the San Joaquin River Restoration Program. The water transfer program should seek to avoid any adverse effects on the River or on activities and plans associated with River restoration.

Groundwater and surface water are interrelated components of the San Joaquin River's hydrology. Potential groundwater effects should be fully analyzed in the DEIS. The DEIS should clearly demonstrate that use of transfer water would not contribute to, or aggravate, existing adverse effects of water use such as agricultural drainage, soil salinity, and land subsidence in the San Joaquin Valley.

EPA appreciates the opportunity to provide scoping comments for this project. When the DEIS is released for public review, please send one hard copy and two CD to the address above (Mail Code: CED-2). If you have any questions, please contact me at (415) 972-3852 or at fujii.laura@epa.gov.

Sincerely,

Laura Fujii
Environmental Review Office
Communities and Ecosystems Division

Enclosures:
EPA comments on the San Joaquin River Exchange Contractors Water Authority Water Transfer Program, 2005 to 2014.

cc: Mark Littlefield, US Fish and Wildlife Service
Joy Winckel, US Fish and Wildlife Service
Rudy Schnagl, Central Valley Regional Water Quality Control Board
Joann White, San Joaquin River Exchange Contractors Water Authority

Read file.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

August 13, 2004

Mr. Bob Eckart
Bureau of Reclamation
MP-150
2800 Cottage Way
Sacramento, CA. 95825

Subject: Draft Environmental Impact Statement for the Water Transfer Program for the San Joaquin River Exchange Contractors Water Authority 2005 - 2014 (CEQ# 040278)

Dear Mr. Eckart:

The Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act. Our detailed comments are enclosed.

We commend the Bureau of Reclamation (BOR) and Exchange Contractors for proposing to provide water for transfer to improve water supply reliability for areas served by the Central Valley Project (CVP). If carefully implemented, this purpose can be carried out while also attending to other issues in the region, notably management of agricultural drainage and water quality to protect beneficial uses. In the San Joaquin Basin, because of the interrelated problems of short water supplies, instream flow deficits, and water quality impairments; actions such as the transfer proposal which could alter the distribution, timing, and quality of water in the Basin, need careful design and coordination with other water quality, quantity, and drainage programs. Providing these concerns are adequately taken into account, we support water management practices that increase the reliability of scarce existing water supplies and provide for flexibility in the allocation, management, and use of the water supply.

We note that the DEIS provides limited information about water quality issues which the Exchange Contractors and potential in-basin transfer recipients are trying to address and which could affect the transfer proposal. The Final EIS (FEIS) should discuss the relationship between the proposed transfer program and measures currently underway in the San Joaquin Valley for water quality improvement, such as the salt/boron Total Maximum Daily Load (TMDL) program, management of agricultural drainage, and implementation of the Regional Water Quality Control Board irrigated lands conditional waiver requirements. The FEIS should also explain if there are potential direct and indirect effects to wetlands from conservation measures (e.g., modification of tailwater recovery ponds and construction of pump stations). Although the

DEIS implies that the CVP purposes for which transfer water is being considered exclude enhancing San Joaquin River instream flows, the FEIS should identify current studies and plans in which BOR is involved or is aware of relating to restoration of the San Joaquin River. Finally, the FEIS should provide additional information on cumulative impacts of past and present water transfer programs and land retirement programs.

Because of the need for full disclosure of San Joaquin Valley water quality, agricultural drainage, irrigated lands conditional waivers, and restoration issues; concerns with impacts to efforts to resolve these issues, and potential impacts to wetlands from conservation measures, we have rated the Proposed Action as Environmental Concerns - Insufficient Information (EC-2). Please see the enclosed Rating Factors for a description of EPA's rating system.

We appreciate the opportunity to review this DEIS. When the FEIS is released for public review, please send two copies to the address above (mail code: CMD-2). If you have any questions, please contact me or Laura Fujii, the lead reviewer for this project. Laura can be reached at 415-972-3852 or fujii.laura@epa.gov.

Sincerely,

Lisa B. Hanf, Manager
Federal Activities Office
Cross Media Division

Enclosures:
Summary of EPA Rating Definitions
EPA's Detailed Comments

cc: Dale Garrison, US Fish and Wildlife Service
John Brooks, US Fish and Wildlife Service
Dennis Wescott, Central Valley Regional Water Quality Control Board
Joann Toscano, San Joaquin River Exchange Contractors Water Authority

SUMMARY OF EPA RATING DEFINITIONS

This rating system was developed as a means to summarize EPA's level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the EIS.

ENVIRONMENTAL IMPACT OF THE ACTION

"LO" (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

"EC" (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

"EO" (Environmental Objections)

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

"EU" (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

ADEQUACY OF THE IMPACT STATEMENT

Category 1" (Adequate)

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

"Category 2" (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

"Category 3" (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640, "Policy and Procedures for the Review of Federal Actions Impacting the Environment."

EPA DETAILED COMMENTS FOR THE DEIS WATER TRANSFER PROGRAM FOR THE SAN JOAQUIN RIVER EXCHANGE CONTRACTORS WATER AUTHORITY 2005-2014, SAN JOAQUIN VALLEY, CA, AUGUST 13, 2004

Water Resources

1. Reaches of the San Joaquin River and tributaries are listed as "impaired" pursuant to Section 303(d) of the Clean Water Act for a number of pollutants. A total maximum monthly load (TMML) reduction program is in place for selenium, and high priority total maximum daily loads (TMDLs) are now being developed by the Regional Water Quality Control Board (Regional Board) for salt/boron, low dissolved oxygen, and pesticides. These efforts are complemented by the Regional Board's Conditional Waiver Program for managing discharges from irrigated lands, which is currently focused on putting monitoring in place. Implementation of monitoring and actions to manage salinity and other pollutants is likely to influence the Exchange Contractors' conservation activities, regardless of the transfer program, although this is not discussed in the draft environmental impact statement (DEIS). Improving water quality and flows along the San Joaquin River system is a complex problem. Shifts in the timing and intensity of water use, improved conjunctive use of surface and ground water, improved coordination and routing of existing supplies, and water conservation can contribute to solutions.

Recommendations:
The Final EIS (FEIS) should address the potential relationships between the water transfer program and water quality goals for the San Joaquin River (River), including TMML/TMDLs and the irrigated lands conditional waiver program.

The FEIS should disclose actions which the Exchange Contractors have taken (existing conditions baseline) and might expect to take (under future "no project" conditions) to manage their agricultural drainage water. For example, explain if activities pursuant to the Regional Board water quality programs or drainage management programs would be undertaken in the future, even if the transfer program is not pursued. Discuss possible constraints and issues associated with discharges of water.

Explain whether implementation actions for water quality and drainage management actions (e.g., TMMLs and Conditional Waiver Program) are directly linked to, and dependent on, the transfer program.

2. Elements of the transfer program involving groundwater pumping and tailwater and spill recovery may have the potential to alter the quality of water available for irrigated lands, including refuges which receive water by means of the Exchange Contractor conveyance system. For example, the DEIS provides a brief description of groundwater water quality, mentioning areas of high salinity, but does not contain enough detail to understand whether, in blending pumped groundwater with surface supplies, there is potential to introduce additional loads of salts, particularly into water which is transferred to other users in the Basin such as the San Joaquin Valley refuges (refuges).

Achieving a salt balance which safeguards continued agricultural productivity in the San Joaquin basin is a challenging problem which is being addressed by a number of parties at the local, state, and federal levels. The Regional Water Quality Control Board's work on a TMDL for salinity/boron has identified excess salt/boron loading in the Basin, although an implementation program to address this problem has not yet been fully developed. While the transfer proposal could help the Exchange Contractors manage salinity in their area, it could be at the expense of transferees such as the refuges. The issue of high salinity levels in refuge supplies and difficulties this poses for refuge salinity management was raised by the Field Supervisor for the Fish and Wildlife Service, Wayne White, in a letter to Robert Schneider, Central Valley Regional Water Quality Control Board this year (January 20, 2004).

We note also that the Mendota Pool is listed by the State Water Resources Control Board as "impaired" for selenium associated with agricultural irrigation, agricultural return flows, and groundwater withdrawals [CWA 303(d) list, July 2003], although this is not mentioned in the DEIS. Providing wetlands with low selenium (maximum 2 ppb) waters is a priority of the US Fish and Wildlife Service.

Recommendation:
The evaluation of potential water quality impacts of increased inputs of groundwater and recovered tail water should be expanded in the FEIS. Explain whether the proposed project could increase the proportion of tailwater and groundwater in water reaching refuges (as transfers, or indirectly), streams, the San Joaquin River, or other water users.

3. Water quality monitoring specific to this project, as well as monitoring already conducted by the lead agencies and others, is not discussed in the DEIS. Environmental consequences on surface water resources states that negative effects would occur, but will be mitigable to minimal effects with transfer approval process measures (e.g., Table 4-63, Summary of Effects of Alternative C, pg. 4-81). Existing surface and ground water quality of the region is of concern. Any action which could potentially affect water quality and efforts to improve it, should be carefully monitored Water quality monitoring is also important to validate assumptions of potential effects of the water transfer program.

Recommendations:
The FEIS should describe the monitoring in place or planned to track potential effects of the transfer program and support the finding that negative effects of the action are mitigable. The monitoring program should include monitoring of ground water quality, and monitoring of surface waters, in addition to the Vernalis compliance point.

Provide information on water quality monitoring that will be used to track changes in salinity, boron, and selenium concentrations in "blended" supplies used within the Exchange Contractor area and transferred/conveyed to other users.

4. The environmental effects of the water transfer program depends, in part, on the relationship between the disposition of transfer water, San Joaquin River flows and water quality, and New Melones Reservoir operations (e.g., pgs 4-22 to 4-26). For instance, in some transfer scenarios, development of transfer water via reuse of tailwater reduces agricultural return flows to the San Joaquin River, reducing overall San Joaquin River flows that could trigger a release from New Melones Reservoir, reducing the storage level of New Melones Reservoir. The level of storage in New Melones Reservoir is a key component of the CVP because water releases from this reservoir are used to meet flow and water quality requirements at the Vernalis compliance point.

Recommendations:
The FEIS should include a diagram and supporting text to describe the operational relationship between the transfer water, San Joaquin River water quality and flows, and the operation of New Melones Reservoir.

The FEIS should also disclose the ability of New Melones Reservoir to meet water quality standards, flow requirements, and water supply needs, including a short description of past experience with New Melones Reservoir operations.

5. The evaluation of effects selectively focuses on State Water Resources Control Board and CALFED requirements such as the Vernalis flow and salinity objectives, and "Delta supplies" (inflows from the San Joaquin River). Potential water quality and flow impacts to other beneficial uses, such as those above and within Mud and Salt Sloughs, and upstream of Vernalis should also be addressed.

Recommendation:
The FEIS should provide more information on conditions in, and potential impacts to, reaches of the river above and within Mud and Salt sloughs. Additionally, explain whether transfers to parties downstream of the Mendota Pool might be conveyed through the River channel reaches where surface flows are linked to operation of the Mendota Pool.

6. Although the DEIS describes Executive Order 11990, Protection of Wetlands, it does not describe the requirements of, or compliance with, the Federal Guidelines for Specification of Disposal Sites for Dredged or Fill Materials (40 CFR 230), promulgated pursuant to Section 404(b)(1) of the Clean Water Act (CWA). Proposed water conservation measures, such as lining of canals, modification of tailwater ponds, and construction of groundwater pumps, could trigger the need for a Section 404 permit pursuant to the above 404(b)(1) Guidelines.

Recommendation:
The FEIS should clarify whether the conservation actions being considered will require a Section 404 permit. If yes, the FEIS should address the 404(b)(1) Guidelines and fully disclose compliance with these requirements.

Allocation of Transfer Water

1. The proposed action would transfer up to 130,000 acre-feet/year (af/yr) of water from the San Joaquin River Exchange Contractors to Central Valley Project (CVP) water service contractors, municipal and industrial (M&I) contractors, and San Joaquin Valley wildlife refuges. Included are lands on the west side of San Joaquin Valley which may have problems with agricultural drainage and high soil salinity. Some of these lands are also the sources of selenium and boron, which are San Joaquin River water quality contaminants of significant concern. CVP water should not be committed to areas with serious drainage problems or lands that contribute to the selenium and boron water quality problem (notably, portions of the west side San Joaquin Valley).

Recommendations:
The FEIS should clearly describe the process and criteria for determining allocations of transfer water. For example, describe who makes the decision (Bureau of Reclamation or Exchange Contractors or both), and how and when the decision is made to allocate transfer water to the refuges, agriculture, and M&I contractors. Describe the criteria for determining the proportion of annual allocation to each type of recipient.

The use of transfer water should maximize beneficial uses and minimize adverse effects of the transfer. The FEIS should explain whether there are procedures in place to preclude allocation of transfer water to lands that contribute to agricultural drainage problems or selenium and boron water quality problems.

2. The DEIS states that allocation of transfer water to San Joaquin Valley wildlife refuges for Level 4 refuge water will provide significant beneficial effects (pg. 6-21). Suitable water quality must be a component of refuge supplies (see Water Resources Comment #2). We observe that the DEIS future "no project" conditions assume that substitute refuge supplies would be purchased. However, there is no information regarding potential sources or quality of these alternative supplies.

Recommendation:
Given the significant beneficial effects of transfer water for the wildlife refuges, the FEIS should consider permanent dedication of a portion of transfer water of suitable quality to Level 4 water for refuges.

3. The DEIS states that water transfers out-of-basin are subject to the reduction in consumptive use/irretrievable loss criteria of the CVPIA, the 1993 Transfer Guidelines, and State law (pg. 2-18). However, these requirements are not well defined. As a result, it is difficult to determine the effect these criteria have on the allocation of transferred water.

Recommendation:
An explanation of "reduction in consumptive use" and "irretrievable loss" criteria should be provided in the FEIS, to supplement the quote provided from the

Interim Guidelines for Implementation of Water Transfers. It would be helpful to explain the purpose of these criteria; discuss how "reduction in consumptive use" and "irretrievable loss" are defined and measured; and explain how these criteria affect the quantities of water that can be transferred.

4. EPA scoping comments regarding funding, recommendations of the Environmental Water Account Science Review Panel, and impacts on the Environmental Water Account, are not addressed in the DEIS. We recommend the FEIS address these comments, if feasible.

Recommendations:
If feasible, funding needs and funding sources for Exchange Contractors' conservation measures and water users purchase of transfer water should be identified. The FEIS should also document applicable recommendations from the 2002 Environmental Water Account Science Review Panel, and describe how the project affects Environmental Water Account (EWA) assets and operations.

Cumulative Impacts

1. The proposed project is for a 10-year transfer program which transitions the current annual transfer program into a long-term transfer program. The Exchange Contractors have conducted annual transfers since 1999. The DEIS does not appear to incorporate into the environmental effects evaluation the past and present impacts and trends of the current annual transfer program.

Recommendation:
The FEIS cumulative impacts analysis should incorporate information on present and past effects and trends of water transfers by the Exchange Contractors.

2. The Westlands Irrigation District has proposed retirement of up to 200,000 acres and the Bureau of Reclamation has a land retirement program that could retire up to 7,000 acres (pg. 7-18). The proposed 10-year transfer program, which includes temporary fallowing of up to 20,000 acres/year of farm land, could have significant cumulative impacts to agricultural land use and a disproportionate impact on low-income and minority groups (pg. 9-6), if other large-scale land retirement programs were implemented at the same time.

Recommendation:
If there is a disproportionate impact to low-income and minority groups and agricultural land use caused by cumulative impacts of temporary fallowing of agricultural land, the FEIS should describe potential mitigation measures for these impacts.

3. Although the transfer program by itself might not have a significant cumulative effect on flows and sensitive species in Mud and Salt Sloughs, the DEIS states that phase out of the Grassland Bypass Project and other potential flow reductions could be cumulatively significant (pg. 6-25).

Recommendation:
The FEIS should describe possible mitigation measures for potential cumulative impacts to sensitive species from flow reductions in Mud and Salt Sloughs.

Biological Resources

1. The DEIS describes the regulatory requirement to consult with the US Fish and Wildlife Service (FWS) and National Oceanic and Atmospheric Administration Fisheries (NOAA Fisheries) pursuant to the Fish and Wildlife Coordination Act. A number of special-status and listed species may occur in the project area.

Recommendation:
The FEIS should disclose the status of consultation with FWS and NOAA Fisheries and issues of concern to these agencies, if any. For instance, describe if there are concerns with potential impacts to riparian habitat and the giant garter snake.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

January 18, 2005

Mr. Bob Eckart
Bureau of Reclamation
MP-150
2800 Cottage Way
Sacramento, CA. 95825

Subject: Final Environmental Impact Statement (FEIS) for the Water Transfer Program for the San Joaquin River Exchange Contractors Water Authority 2005 - 2014 (CEQ# 040575)

Dear Mr. Eckart:

The Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act.

EPA reviewed the Draft EIS (DEIS) and rated it as Environmental Concerns - Insufficient Information (EC-2) (letter dated August 13, 2004). We expressed concerns regarding impacts from changes in the distribution, timing, and quality of water in the San Joaquin Basin. We recognize and appreciate the additional information that has been included in the Final EIS describing related projects in the area. However, we have continuing concerns about the cumulative impacts of past and present water transfer programs and land retirement programs.

We also continue to recommend that the proposed action be based on validated analyses of the past and present effects and trends of water transfers by the Exchange Contractors. We note that the environmental effects of the proposed action depend, in part, on the disposition of transfer water, San Joaquin River flows and water quality, and New Melones Reservoir operations (DEIS, pp 4-22 to 4-26). We also remain concerned that elements of the water transfer such as groundwater pumping and tailwater and spill recovery may have the potential to alter the quality of water available for irrigated lands. The FEIS concludes that tailwater recapture will reduce salt loading to the River, contributing to an overall water quality improvement. However, we note that the larger problem of managing salt balance in the basin remains, since withholding tailwater from the River does not remove salts from the watershed.

Tailwater recapture may further complicate the implementation of the Total Maximum Daily Loads (TMDLs) for salt and boron.

We recognize that improving water quality and flows along the San Joaquin River system is a complex problem. A few available solutions involve shifts in the timing and intensity of water use, improved conjunctive use of surface and ground water, improved coordination and routing of existing supplies, and water conservation. However, actions which the Exchange Contractors have taken (existing conditions baseline) and might expect to take (under future "no project" conditions) to manage their agricultural drainage water were not included in the Draft or Final EIS. The relationship of water quality improvement measures, drainage management actions (e.g., Total Maximum Monthly Loads [TMMLs] and Conditional Waiver Program), and the transfer program remains unclear.

As we stated in our comments on the DEIS, reaches of the San Joaquin River and tributaries are listed as "impaired" pursuant to Section 303(d) of the Clean Water Act for a number of pollutants. Despite this impairment, the FEIS did not fully identify current studies and plans (including those in which Reclamation is involved) related to San Joaquin River restoration. These plans may affect management options. We note that the FEIS includes information on the Upper San Joaquin Conceptual Restoration Plan (p. 1-10), but does not consider restoration strategies directed by the Department of Water Resources.

Providing wetlands with adequate supplies of high quality waters is important for restoring and protecting wildlife refuges within the San Joaquin River basin. We note that water transfers to refuges would not neccesarily improve the quality of these supplies, which are currently high in Total Dissolved Solids (TDS). Moreover, conclusions regarding potential impacts on flow and associated beneficial uses (FEIS, p. 6-25) may need to be reconsidered after Reclamation completes the Section 7 consultation process with the U.S. Fish and Wildlife Service.

We appreciate the opportunity to review this FEIS. When the Record of Decision is signed, please send one copy to the address above (mail code: CMD-2). If you have any questions, please contact me or Summer Allen, the lead reviewer for this project. Summer can be reached at 415-972-3852 or allen.summer@epa.gov.

Sincerely,

Lisa B. Hanf, Manager
Federal Activities Office
Cross Media Division

Main ID# 004267

cc: John Brooks, US Fish and Wildlife Service

Joann Toscano, San Joaquin River Exchange Contractors Water Authority
Dennis Wescott, Central Valley Regional Water Quality Control Board
Joy Winckel, US Fish and Wildlife Service

From: Joann White [jtoscano@sjrecwa.net]
Sent: Wednesday, August 17, 2011 3:17 PM
To: Susan Hootkins; Steve Chedester
Subject: FW: DEC-11/0130:San Joaquin River Exchange Contractors Water Authority's 25-Year Water Transfer Program 2014 to 2038, California

FYI

-----Original Message-----
From: Debbie_Allen@nps.gov [mailto:Debbie_Allen@nps.gov]
Sent: Wednesday, August 17, 2011 3:02 PM
To: Joann White; bhubbard@usbr.gov
Cc: Alan_Schmierer@nps.gov; waso_eqd_extrev@nps.gov; Susmita_Pendurthi@ios.doi.gov; Patricia_Port@ios.doi.gov
Subject: Fw: DEC-11/0130:San Joaquin River Exchange Contractors Water Authority's 25-Year Water Transfer Program 2014 to 2038, California

PWR has no comment regarding subject document.

Debbie Allen
National Park Service
Partnerships Programs, PWR
1111 Jackson Street #700
Oakland, CA 94607
510/817-1446
510/817-1505 Fax

"Don't dwell on what went wrong. Instead, focus on what to do next. Spend your energies on moving forward toward finding the answer." -- Denis Waitley

----- Forwarded by Debbie Allen/OAKLAND/NPS on 08/17/2011 02:59 PM -----

Dale_Morlock@nps.gov

To: Debbie_Allen@nps.gov

07/12/2011 01:02 PM

cc:

Subject: DEC-11/0130:San Joaquin River Exchange Contractors Water

Authority's 25-Year Water Transfer Program 2014 to 2038, California

NPS External Affairs Program: ER2000 Program Email Instruction Sheet

United States Department of the Interior

National Park Service Environmental Quality Division

7333 W. Jefferson Avenue

Lakewood, CO 80235-2017

EIS/Related Document Review: Detail View

http://er2000/detail.cfm?ernum=15903

Document Information

Record #15903

ER Document Number

DEC-11/0130

Document Title

San Joaquin River Exchange Contractors Water Authority's
25-Year Water Transfer Program 2014 to 2038, California

Location

State	County
California	Alameda County
California	Contra Costa County
California	Fresno County
California	Imperial County
California	Kern County

California

Kings County

California

Madera County

California

Merced County

California

Monterey County

California

San Benito County

California

San Joaquin County

California

Santa Clara County

California

Santa Cruz County

California

Stanislaus County

California

Tulare County

Document Type

Notice of Intent, Prepare a Environmental Impact Statement,
Environmental Impact Report

Doc. Classification

Water Project

Applicant

Bureau of Reclamation

Web Review Address

http://www.gpo.gov/fdsys/pkg/FR-2011-07-06/html/2011-16838.htm

http://www.usbr.gov/newsroom/newsrelease/detail.cfm?RecordID=36603

http://www.usbr.gov/projects/Project.jsp?proj_Name=Central+Valley+Proj

ect

Document Reviewers

WASO Lead Reviewer

WASO Reviewers

Thomas Flanagan(2310), Nancy Brian(2340), Kerry Moss(2360), David
Vana-Miller(2380), Patricia F Brewer(2350), Steven Elkinton(2220),
Bill Commins(2200), Paul Wharry(2033), Dale Morlock(2310), Tokey
Boswell(2510), John Wullschleger(2380), Gary Rosenlieb(2310), Bill
Hansen(2380), Charlie Stockman(2510)

Regional Lead Reviewer

Alan Schmierer (PWR-O)

Regional Reviewers

Alan Schmierer(PWR-O), Martha Crusius(PWR-O), Debbie Allen(PWR-O),
Mietek Kolipinski(PWR-O), Lee Kreutzer(PWR-O), Michael Elliott(PWR-O)

Cultural Lead Reviewer

Daniel Odess

Cultural Reviewers

Daniel Odess

Action

Lead Bureau

Bureau of Reclamation

Response Type

Regional Response

Instructions

Comments to Lead DOI Bureau. NPS Lead consolidates NPS comments, prepares comment/no comment memo, and emails to Lead DOI Bureau with copy to EQD (WASO-2310). See DI Remarks Section below for specifics.

Topic Context

The Department of the Interior, Bureau of Reclamation (Reclamation) and the San Joaquin River Exchange Contractors Water Authority (Exchange Contractors) propose to prepare a joint EIS/EIR for a twenty-five year water transfer program (Program).

The action would be to execute agreements for water transfers among Reclamation, Mid- Pacific Region; Central Valley Project (CVP) and State Water Project (SWP) contractors; and the Exchange Contractors for water service years 2014 to 2038.

The Program would consist of the annual development and transfer of up to 150,000 acre-feet of substitute water (maximum of 100,000 acre-feet of conserved water and a maximum of 50,000 acre-feet from land fallowing) from the Exchange Contractors to other CVP contractors, to Reclamation's Refuge Water Supply Program (RWSP) for

delivery to the
San Joaquin Valley wetland habitat areas (wildlife refuges), and/or
State Water Project (SWP) contractors.

The proposed Program would assist Reclamation in optimizing the use of
limited existing water resources for agriculture, fish and wildlife
resources, and municipal and industrial purposes.

DI Remarks

Reviewers: Please Email comments to NPS Lead Alan Schmierer (PWR-O),
Alan_Schmierer@nps.gov by August 1, 2011.

NPS Lead: Alan Schmierer please consolidate NPS comments (no comment)
in memo format and send directly to BOR, Sacramento, CA,

bhubbard@usbr.gov by August 10, 2011, with copy to:

waso_eqd_extrev@nps.gov, Susmita_Pendurthi@ios.doi.gov and patricia_
port@doi.gov

Applicant Address for Alan Schmierer: Brad Hubbard, Bureau of
Reclamation, 2800 Cottage Way, MP-410, Sacramento, California, 95825.

CONTACTS:

Brad Hubbard, Project Manager, Bureau of Reclamation.

* Telephone: (916) 978-5204.

* email: BHubbard@usbr.gov

Joann White, San Joaquin River Exchange Contractors Water Authority.

* Telephone: (209) 827-8616.

* email: jwhite@sjrecwa.net

Email Comment Address

bhubbard@usbr.gov

Workflow

Send Comments to Lead Office: PWR-O

Send to: Alan Schmierer (PWR-O) by 08/01/11

Lead DOI Bureau: Bureau of Reclamation

DUE TO: Lead Bureau by 08/10/11

DATE DUE OUT: 08/10/11

OEPC Memo to EQD: 07/12/11

Comments Due To Lead WASO Div:

Comments Due Out to

OEPC/Wash or Applicant: 08/10/11

Comments Due To Lead Region:

08/01/11

Comments Due in EQD:

Comments Due to REO:

Tracking Dates

Rcvd. Region Comments:

Comments Sent to OEPC, REO, or Applicant:

New Instructions:

Recvd. Ext. Letter:

Reg. Cmts. to Bureau:

Cmts. Called In:

Chief:

Signed:

Comments Sent to EQD

Comment Letter/Memo

Recvd. Extension:

Sent Add. Info:

Reg. Cmts. Listed:

Rcvd. Bureau Cmts:

Tracking Notes

Reviewer Notes

Documentation

Document Last Modified: 07/12/2011

Complete: False

Date Created: 07/12/2011

Date Last Email Sent:

DEPARTMENT OF TRANSPORTATION
DIVISION OF TRANSPORTATION PLANNING
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Flex your power!
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July 15, 2011

Joann White
San Joaquin River Exchange Contractors Water Authority
P.O. Box 2115
Los Banos, CA 93635

Notice of Preparation (NOP) for the 25-Year Water Transfer Program for the San Joaquin River Exchange Contractors Water Authority (2014-2038) (SCH No. 2011061057)

Dear Ms. White:

The California Department of Transportation (Caltrans) appreciates the opportunity to comment on the Notice of Preparation (NOP) for the 25-Year Water Transfer Program for the San Joaquin River Exchange Contractors Water Authority (Exchange Contractors) 2014-2038. The Exchange Contractors as Lead Agency under the California Environmental Quality Act (CEQA), and the Bureau of Reclamation as Lead Agency under the National Environmental Protection Policy (NEPA), will prepare a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for an extension of the current 10-year water transfer program for a 25-year period.

Caltrans has responsibility for the maintenance and operation of State and Interstate highways within California. Any proposals that would affect the State Highway System are of concern to the Department. This proposal may potentially interface with facilities in our charge located in Caltrans Districts 6 and 10, which include Fresno, Madera, Merced and Stanislaus counties.

Encroachment Permits
Please be advised that any work or traffic control that encroaches on State right-of-way (ROW) requires an encroachment permit issued by the Department. Further information is available on the following website: http://www.dot.ca.gov/hq/traffops/developserv/permits/.

To apply, a completed encroachment permit application, environmental documentation, and five (5) sets of plans clearly indicating State ROW must be submitted to the Encroachment Permits office in the appropriate Caltrans District to ascertain whether such a permit will be required. Traffic-related mitigation measures should be incorporated into the construction plans during the encroachment permit process.

Enclosed for your reference is a map of the Caltrans Districts and Counties within California, providing contact information for each District's Encroachment Permits office.

Please let me know if I can be of any assistance. My telephone number is 916.653.0808, and I can be reached via e-mail at: josh.pulverman@dot.ca.gov.

Sincerely,

Joshua Pulverman
Statewide Local Development-Intergovernmental Review Coordinator
Office of Community Planning

c: State Clearinghouse, Governor's Office of Planning and Research (OPR)
J. Jaramillo, District 10 – Office of Metropolitan Planning
W. Stroud, District 10 – Environmental

Enclosure

District Encroachment Permit Offices

District 01
1656 Union Street (95501)
P. O. Box 3700
Eureka, CA 95502-3700
(707) 445-6385
(707) 445-6317 FAX

D01- Satellite Office
90 W. Lake Mendocino Dr.
Ukiah, CA 95482
(707) 463-4743
(707) 463-4736 FAX

District 02
1657 Riverside Drive (96001)
P. O. Box 496073
Redding, CA 96049-6073
(530) 225-3400
(530) 225-3097 FAX

District 03
703 "B" Street
P.O. Box 911
Marysville, CA 95901
(530) 741-4403
(530) 741-4236 FAX

District 04
111 Grand Avenue, 6th Floor
P. O. Box 23660
Oakland, CA 94623-0660
(510) 622-0724
(510) 286-4712 FAX

District 05
50 Higuera Street
San Luis Obispo, CA 93401-5415
(805) 549-3152
(805) 549-3062 FAX

District 06
1352 W. Olive Avenue
Fresno, CA 93728
(559) 488-4058
(559) 445-6510 FAX

District 07
100 South Main Street, Suite 100
Los Angeles, CA 90012
(213) 897-3631
(213) 897-0420 FAX

D07 - Satellite Office
950 County Square Drive, Suite 112
Ventura, CA 93003
(805) 650-7179

District 08
464 W 4th Street MS 619
San Bernardino, CA 92401-1400
(909) 383-4526
(909) 383-4224 FAX

District 09
500 South Main Street
Bishop, CA 93514
(760) 872-0674
(760) 872-5215 FAX

District 10
1976 E. Charter Way/MLK Jr Blvd (95205)
P. O. Box 2048
Stockton, CA 95201
(209) 948-7891
(209) 948-7232 FAX

District 11
4050 Taylor St MS 110
San Diego, CA 92110
(619) 688-6158
(619) 688-6157 FAX

District 12
3347 Michelson Drive., Suite 100
Irvine, CA 92612

Mailing address:
3337 Michelson Drive., Suite 380
Irvine, CA 92612-8894
(949) 724-2445
(949) 724-2265 FAX

*Eastern Kern County and Northern San Bernardino County fall under D09's jurisdiction. Please contact the office if you have any questions.

STATE OF CALIFORNIA — Edmund G. Brown Jr., Governor

NATIVE AMERICAN HERITAGE COMMISSION
915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
(916) 653-4082
(916) 657-5390 - Fax

June 22, 2011

Joann White
San Joaquin river Exchange Contractors Water Authority
P.O. Box 2115
Los Banos, CA 93635

RE: SCH# 2011061057 25-Year Water Transfer Program for the San Joaquin River Exchange Contractors Water Authority; Fresno, Madera, Merced and Stanislaus Counties.

Dear Ms. White:

The Native American Heritage Commission (NAHC) has reviewed the Notice of Preparation (NOP) referenced above. The California Environmental Quality Act (CEQA) states that any project that causes a substantial adverse change in the significance of an historical resource, which includes archeological resources, is a significant effect requiring the preparation of an EIR (CEQA Guidelines 15064(b)). To comply with this provision the lead agency is required to assess whether the project will have an adverse impact on historical resources within the area of project effect (APE), and if so to mitigate that effect. To adequately assess and mitigate project-related impacts to archaeological resources, the NAHC recommends the following actions:

- ✓ Contact the appropriate regional archaeological Information Center for a record search. The record search will determine:
  - If a part or all of the area of project effect (APE) has been previously surveyed for cultural resources.
  - If any known cultural resources have already been recorded on or adjacent to the APE.
  - If the probability is low, moderate, or high that cultural resources are located in the APE.
  - If a survey is required to determine whether previously unrecorded cultural resources are present.
- ✓ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
  - The final report containing site forms, site significance, and mitigation measurers should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure.
  - The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological Information Center.
- ✓ Contact the Native American Heritage Commission for:
  - A Sacred Lands File Check. . **USGS 7.5 minute quadrangle name, township, range and section required.**
  - A list of appropriate Native American contacts for consultation concerning the project site and to assist in the mitigation measures. **Native American Contacts List attached.**
- ✓ Lack of surface evidence of archeological resources does not preclude their subsurface existence.
  - Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5(f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
  - Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.
  - Lead agencies should include provisions for discovery of Native American human remains in their mitigation plan. Health and Safety Code §7050.5, CEQA §15064.5(e), and Public Resources Code §5097.98 mandates the process to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery.

Sincerely,

Katy Sanchez

Katy Sanchez
Program Analyst
(916) 653-4040

cc: State Clearinghouse

State Water Resources Control Board

Division of Water Rights

1001 I Street • Sacramento, California 95814• (916) 341-5300
Mailing Address: P.O. Box 2000 • Sacramento, California • 95812-2000
FAX (916) 341-5400 • http://www.waterboards.ca.gov/waterrights

Linda S. Adams
Acting Secretary for
Environmental Protection

Edmund G. Brown Jr.
Governor

July 21, 2011

Ms. Joann White
San Joaquin River Exchange Contractors Water Authority
P.O. Box 2115
Los Banos, CA 93635

Dear Ms. White:

COMMENTS ON NOTICE OF PREPARATION (NOP) OF AN ENVIRONMENTAL IMPACT STATEMENT/ENVIRONMENTAL IMPACT REPORT FOR THE 25-YEAR WATER TRANSFER PROGRAM

This letter responds to your Notice of Preparation (NOP) of an Environmental Impact Statement/ Environmental Impact Report (EIS/EIR) dated June 17, 2011, and received by the State Water Resources Control Board (State Water Board) on June 23, 2011. The NOP indicates that the San Joaquin River Exchange Contractors (Exchange Contractors) as Lead Agency under the California Environmental Quality Act (CEQA) and the U.S. Bureau of Reclamation (Reclamation) as Lead Agency under the National Environmental Protection Policy, will prepare a joint EIS/EIR for an extension of the current 10-year water transfer program for a 25-year period (with some modifications in water development and use), for water years 2014-2038.

The purpose of the proposed water transfer program (Program) is to allow the annual transfer and/or exchange of Central Valley Project (CVP) water from the Exchange Contractors to continue after February 28, 2014 (water year 2013), to consider alternatives of additional conservation water transfers under specified conditions, and to provide for the alternative of delivery of transfer water to additional areas and contractors not included in the 10-year program EIS/EIR.

The proposed Program will evaluate project alternatives involving multiple sources of developed water and multiple users of that water. The Exchange Contractors propose to develop water from a conservation/tailwater recovery program and crop idling/temporary land fallowing.

Pursuant to CEQA, the State Water Board is a responsible agency for this project. The State Water Board administers water rights in California, including those of the State Water Project (SWP) and CVP, and may impose requirements related to approval of any transfers of water as authorized under California law. In addition, the State Water Board also has primary authority over the protection of the state's water quality, including development and implementation of water quality objectives currently included in the 2006 Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (2006 Bay-Delta Plan).

As a responsible agency under CEQA, the State Water Board must review and consider the environmental effects of the project identified in the EIR that are within its purview and reach its conclusions on whether and how to approve the project involved. (Cal. Code Regs., tit. 14, § 15096, subd. (a).) Water transfers and/or exchanges may require approval by the State Water Board and must not injure any other legal user of the water nor unreasonably affect fish, wildlife, or other instream beneficial uses. A water transfer petition should be submitted to the State Water Board for all applicable transfers and/or exchanges per this Program. Petitions should be submitted on the form entitled "Petition for Long Term Transfer of Water/Water Rights" available on the Division of Water Rights website.

Any approval of a water transfer and/or exchange may include terms similar to those identified below:

a. Exchange Contractors shall provide a final water transfer summary report of all transfers and/or exchanges to be completed under this Program. For each transfer and/or exchange, the summary report shall include the parties involved, the amount of water transferred and/or exchanged, the dates the transfer and/or exchange began and ended, the original point of diversion of the water, and the original and changed places of use.

b. Exchange Contractors shall submit detailed monthly reports of all water transferred and/or exchanged under the provisions of this Program in accordance with a reporting plan developed by Exchange Contractors. The plan must be approved by the Deputy Director prior to initiating operations under this Program. The report for each transfer and/or exchange shall include the parties to the transfer and/or exchange, the amount of water transferred and/or exchanged, how the water was made available, the facilities required to implement the transfer and/or exchange, anticipated changes to streamflow or agricultural drainage from the transfer and/or exchange, and how the transfer and/or exchange affected the overall water supply of the agency receiving the transfer and/or exchange.

c. CVP water deliveries shall not exceed quantities contained in long-term supply agreements with Reclamation (for CVP) and Department of Water Resources (for SWP).

d. Transfers and/or exchanges under this Program shall not result in the net decrease of San Joaquin River or Sacramento River flow over the period of the transfer and/or exchange.

e. In order to facilitate monitoring of changes to streamflow and agricultural drainage, Exchange Contractors must provide ongoing reporting of streamflow and salinity during the period of time this Program is in effect. The monitoring plan must be approved by the Deputy Director prior to initiating operations under this Program. Exchange Contractors shall consult with Division of Water Rights staff to develop the plan, including selection of appropriate monitoring locations, reporting frequency and data reporting format.

f. Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this Program, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

   The continuing authority of the State Water Board may also be exercised by imposing specific requirements in addition to those mentioned above with a view to eliminating waste of water and to meeting the reasonable water requirements of permittees and licensees without unreasonable draft on the source.

The draft EIR must address compliance with water quality objectives included in the 2006 Bay-Delta Plan and any other effects that the proposed project may have on water quality or flow conditions in the San Joaquin River and Delta, including potential impacts on salinity concentrations and on other water right holders. In addition, the draft EIR should address compliance with biological opinion requirements and other requirements related to protection of species listed pursuant to the State and federal Endangered Species Acts.

Thank you for the opportunity to comment on the NOP. Please send a copy of the draft EIR for this Program to the State Water Board for our review, when it is available. For any questions or further correspondence, please contact me at (916) 445-5997 or asnider@waterboards.ca.gov.

Sincerely,

Anne Snider

Anne Snider
Environmental Scientist
Bay-Delta Unit

ec: Tim Rust
Bureau of Reclamation
trust@usbr.gov

CENTRAL DELTA WATER AGENCY
235 East Weber Avenue • P.O. Box 1461 • Stockton, CA 95201
Phone 209/465-5883 • Fax 209/465-3956

July 18, 2011

Via Email trust@usbr.gov,
Facsimile No. (916) 978-5290
and First Class Mail

Tim Rust
U.S. Bureau of Reclamation
Mid Pacific Region
2800 Cottage Way, MP-410
Sacramento, C 95825-1898

Via Email jwhite@sjrecwa.net,
Facsimile No. (209) 827-9703
and First Class Mail

Joann White
San Joaquin River Exchange
Contractors Water Authority
P.O. Box 215
Los Banos, CA 93635

Re: Scoping Comments for 25 Year Water Transfer Program Environmental Impact Statement/Environmental Impact Report

Dear Mr. Rust and Ms. White:

Please accept these comments of the Central Delta Water Agency ("CDWA") on the scope of the proposed Environmental Impact Statement ("EIS")/Environmental Impact Report ("EIR") to be prepared by the Department of the Interior, Bureau of Reclamation ("USBR") and the San Joaquin Exchange Contractors Water Authority ("Exchange Contractors"), for the 25-Year Water Transfer Program.

It is stated the USBR and the Exchange Contractors are preparing a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for a proposed 25-year extension (Proposed Action) of the current 10-year Exchange Contractors Central Valley Project (CVP) water transfer program, which expires February 28, 2014. The Proposed Action contains unspecified modifications in water development and use to the current program's water transfer portfolio. The Proposed Action performance period will be the water years 2014 through 2038.

It is further stated that the water transfers under the Proposed Action would occur between the Exchange Contractors and unspecified CVP and Non-CVP water contractors and wildlife refuges largely within California's San Joaquin Valley, but may also include water users south and east of the San Francisco Bay and east of Monterey Bay. The purpose of use is not

specific. The Proposed Action would allow the annual transfer of Exchange Contractor's CVP water to continue after the Water Year 2013. The Proposed Action considers unspecified, additional water conservation derived alternatives under unspecified conditions.

The project is not clearly defined.

Please accept these comments concerning the scoping of the EIS/EIR.

1. A Complete and Adequate Description of the Project Has Not Been Provided.

The project description states that it would evaluate the annual development of 150,000 acre-feet of substitute water from "conservation measures, including tail water recovery, and temporary land fallowing.

In order to provide a complete and adequate ability to provide scoping comments, the project should be more fully and completely described. The project should be clarified to state whether the past practices are or are not part of this project.

2. Full Analysis of the Impacts from Use of Conservation Measures, Including Tailwater Recovery.

With regard to the investigation and evaluation of impacts and potential impacts, one of the critical direct and indirect impacts which the EIS/EIR should fully evaluate is the use of the conservation measures, including tailwater recovery. The potential impacts of tailwater recovery will be far reaching, and should be reviewed for consistency with riparian rights, in-stream flow needs, groundwater recharge, river accretions and assimilative capacity of surface and groundwater and Delta outflow. Further, the EIS/EIR should investigate, discuss, analyze, and ultimately mitigate to the extent feasible, the potential impacts from tailwater recovery.

Also, the EIS/EIR must evaluate potentially substantial and cumulative impacts in all of the areas directly or indirectly affected by all conservation measures.

3. Full Analysis Should Be Made of the Short and Long-Term Effects of Cropland Idling.

Cropland idling, or fallowing, creates a whole host of issues that must be analyzed, including but not limited to the following:

A. Lack of groundwater recharge by percolation and return surface flows to waterways from surface irrigation.

B. Habitat modification for species benefitting from farming, including

waterfowl.

C. Economic impacts to the communities from loss of farm employment and adverse impacts on the local business community dependent upon actual farming.

D. Greenhouse gas effects, including carbon sink and sequestration relative to active farming, and effects of cropping changes in the area of supply and the area of usage.

E. The impacts of having food supplies grown at other than existing locations, including the need for rice to be grown elsewhere.

F. The loss of availability of water supply for other local uses on the land from which the water is transferred.

4. Full Analysis of the Drainage Impacts from Use of Transferred Water.

With regard to the investigation and evaluation of impacts and potential impacts, the EIS/EIR must fully evaluate the direct and indirect impacts of the use of transferred water in the already drainage impaired San Joaquin Valley. The transfer of water requires in-depth study of the drainage in all areas of delivery which directly or indirectly drain surface and subsurface waters, and, hence, the various pollutants contained in such waters and irrigated lands, into any waterways. Such waters directly or indirectly drain into waterways, including the San Joaquin River and upslope areas which generate hydraulic pressure which thereby increase the drainage of waters from the downslope lands into groundwater and the San Joaquin River. Waterlogging of the lowlands in the CVP service areas is a substantial issue, worsened by the project. The potential for such impacts is widely recognized and well-established.

The proposed project necessitates that the EIS/EIR investigate, discuss, analyze, and ultimately mitigate to the fullest extent feasible, the potential impacts from water use that would not occur absent the transfer and thereby increase impacts on the water quality of the San Joaquin River. A true "no project" alternative must be evaluated.

It is well-recognized that drainage directly or indirectly into the San Joaquin River can and does contain numerous contaminants which must be properly investigated and evaluated (e.g., selenium, boron, molybdenum, other trace elements, etc.). Any increase in these contaminants that may arise from the project must be evaluated. The EIS/EIR must evaluate potentially substantial and cumulative impacts in all of the areas directly or indirectly affected by the project, including but not limited to the Delta.

5. Consideration of Federal Anti-degradation Laws.

The Federal Environmental Protection Agency ("EPA") requires all states to adopt an "antidegradation policy" similar to the State Water Resources Control Board's ("SWRCB") Resolution 68-16. (40 C.F.R. 131.12.) Resolution 68-16 is intended to and implements Water Code section 13000, requiring the SWRCB to regulate all "activities and factors which may affect the quality of the waters of the state" such that they "attain the highest water quality which is reasonable."

The SWRCB's Resolution 68-16 (commonly referred to as the SWRCB's "Anti-Degradation Policy") provides in pertinent part:

> "Whenever the existing quality of water is better than the quality established in policies as of the date on which such policies become effective, such existing high quality will be maintained until it has been demonstrated to the State that any change will be consistent with maximum benefit to the people of the State, will not unreasonably affect present and anticipated beneficial use of such water and will not result in water quality less than that prescribed in the policies."

The EIS/EIR must analyze compliance with these requirements and explain the proposed project's impacts upon San Joaquin River and Sacramento River water quality and water quality in all waters into which transferred waters may drain or supply, including, but not limited to, drainage from lands irrigated by water supplied by the project as well as water supplied by others and other sources. The significant potential for degradation of San Joaquin River and Sacramento River water quality and water quality elsewhere is a great concern, and the same must be fully analyzed and evaluated. Further, it must be determined whether the project meets the specific requirement that it be "consistent with maximum benefit to the people of the State, will not unreasonably affect present and anticipated beneficial use of such water and will not result in water quality less than that prescribed in the policies."

The transfer presents a number of troubling issues due to the substantial risk of impairment of other waters. This needs to be thoroughly investigated and analyzed in the EIS/EIR.

6. The San Luis Act of June 3, 1960, Public Law 86-488, 77 Stat. 156.

Public Law 86-488 specifically requires:

> "Construction of the San Luis unit shall not be commenced until the Secretary has . . . received satisfactory assurance from the State of California that it will make provision for a master drainage outlet and disposal channel for the

> San Joaquin Valley, as generally outlined in the California water plan, Bulletin Numbered 3, of the California Department of Water Resources, which will adequately serve, by connection therewith, the drainage system for the San Luis unit, or has made provision for constructing the San Luis interceptor drain to the delta designed to meet the drainage requirements of the San Luis unit as generally outlined in the report of the Department of the Interior, entitled 'San Luis Unit Central Valley project,' dated December 17, 1956." (Emphasis added.)

The drain for removal of salts from the valley has never been constructed, yet over a million acre feet of water per annum from the San Luis Unit was committed to use. With every acre foot of water delivered to the San Joaquin Valley through the Delta Mendota Canal and San Luis Unit, there is delivered a significant quantity of salt which is retained in the San Joaquin Valley or returned to the Delta via the San Joaquin River. The substantial degradation of the San Joaquin River from such drainage is well-understood and recognized.

The project will result in further impairment of water quality, and in doing so, will merely increase the volume of salt in the groundwater and return flows. Moreover, in the absence of the project it is reasonable to anticipate a reduction or change in cropping patterns and a reduction in lands in transferee areas under cultivation, thereby reducing ground and surface water quality impairment. Of course, the EIS/EIR needs to fully investigate and analyze all of these issues.

Without the required drain, the EIS/EIR must evaluate the project's impact, including cumulative impacts, ensuing from the continued irrigation of the transferee area of use, and the impacts of increasing irrigation in areas that would not otherwise be irrigated in the absence of the project. The EIS/EIR should examine and explain how the proposed project as well as existing conditions are consistent with and in compliance with PL 86-488.

7. The EIS/EIR Should Include A Range of Alternatives, including a No Project Alternative.

The EIS/EIR should evaluate a range of reasonable alternatives, including but not limited to the following:

1. No Project.

2. Reducing and curtailing water supply demand, including the reduction and elimination of the irrigation supply to drainage impaired lands, and alteration of farming practices, including cropping, in the transferor and transferee area.

The EIS/EIR should also include, in the context of the analysis of some of the foregoing alternatives or otherwise, an extensive discussion of desalinization options in order to promote

regional self-sufficiency and, hence, improved water reliability that would obviate the need for the project. Such a discussion would be in furtherance of Water Code section 12946 which provides:

> "It is hereby declared that the people of the state have a primary interest in the development of economical saline water conversion processes which could eliminate the necessity for additional facilities to transport water over long distances, or supplement the services to be provided by such facilities, and provide a direct and easily managed water supply to assist in meeting the future water requirements of the state."

Opportunities for environmentally friendly desalinization of ocean waters as well as brackish ground waters should be thoroughly examined.

8. Full Analysis of Impacts In the Delta.

In addition to the San Joaquin River water quality issues from return flows and accretions, hydraulic pressures, and waterlogging, other impacts outside and within the Delta should be fully evaluated. This would include effects upon Delta water use due to the periodic imposition of Term 91 conditions to protect the transferee water supply during transfers, thereby depriving Delta water users of the ability to use water during July through September.

9. Evaluate Conditions That May Be Reasonably Anticipated to Exist in the Future.

The EIS/EIR should include an analysis of the present and future water needs including environmental water needs and the needs to offset overdraft of groundwater within the watersheds of origin (See Water Code section 11460) and determine the availability of surplus water. Water not needed by the transferors may be needed by others within the watersheds of origin.

Even more so since no drainage solution has been implemented, the EIS/EIR should evaluate impacts of the project against the background of a variety of scenarios and outcomes, including but not limited to, the lack of a drain ever being implemented, substantially inadequate supplies in the transferor and transferee areas, implementation of the SWRCB Flow Study, the project's enablement of continued farming and cropping practices and urbanization that are not otherwise supportable by adequate supplies of water, and land retirement.

10. CVPIA Analysis.

The EIS/EIR should include an analysis of how the transfers will impact water purchases by the CVP to enable compliance with the Central Valley Project Improvement Act.

11. Calfed Bay Delta Authorization Act.

The EIS/EIR should include an analysis of how transfers will impact CVP compliance with the California Bay Delta Authorization Act, October 25, 2004, Public Law 108-361, 118 Stat. 1681, section 103(d)(2)(D).

12. Evaluation of Shorter-Term Contracts.

The project should evaluate the benefits and detriments of shorter term contract alternatives.

Thank you for the opportunity to comment on the scope of the EIS/EIR. We look forward to the receipt of a comprehensive EIS/EIR.

Very truly yours,

DANIEL A. McDANIEL
Attorney for Agency

DAM:kk

FRIANT
WATER AUTHORITY

July 20, 2011

VIA ELECTRONIC MAIL

Joann White
San Joaquin River Exchange Contractors Water Authority
P.O. Box 2115
Los Banos, CA 93635
jwhite@sjrecwa.net

Brad Hubbard
U.S. Bureau of Reclamation, Mid-Pacific Region
2800 Cottage Way, MP-410
Sacramento, CA 95825-1898
bhubbard@usbr.gov

Re: Comments on Scope of EIS/EIR for 25-year Extension of Exchange Contractors' CVP Water Transfer Program

Dear Ms. White and Mr. Hubbard,

Thank you for the opportunity to comment on the scope of the environmental documentation regarding the proposed 25-year extension of the Exchange Contractors' CVP Water Transfer Program. The Friant Water Authority (FWA) understands that one or more of its member agencies have benefited from the current Exchange Contractor transfer program and anticipates that one or more FWA members are likely to benefit from an extended transfer program.

However, the water supply for the Friant Division of the CVP bears a unique relationship with the Exchange Contractors' water rights and water supply and Friant Division contractors pay the costs for substitute water delivered to the Exchange

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Website: www.friantwater.org

Contractors. Therefore, FWA requests that the following issues and concerns be addressed in the subject EIR/EIS either as part of the Project Description or the analysis of potential impacts:

1. There should be no alteration of any conditions of the Exchange Contractors' Purchase and Exchange Contracts with USBR as a result of this program.
2. The Transfer Program should result in no changes in SLDMWA O&M cost allocation procedures, including provisions that Friant Contractors do not pay for the cost of any water transferred by the Exchange Contractors to other entities.
3. The Transfer Program should not result in any changes in USBR cost allocation to CVP contractors.
4. The Transfer Program should not result in any changes in USBR operations that would adversely impact the water supplies of any other CVP contractors.
5. The Transfer Program cannot result in or contribute to the need for Reclamation to deliver Exchange Contractor supplies from the San Joaquin River via releases from Friant Dam.
6. Storage of any transferred water in SLR under agreements that post-date the San Joaquin River Restoration Program should not take priority over recaptured San Joaquin River Restoration Flows.

We also believe the project description should be clear regarding what water is being transferred. If, as described in the Notice of Preparation, the water to be transferred is CVP water that otherwise would have been delivered to the Exchange Contractors as substitute supply but for the actions being taken to develop the water for transfer, then the project description should specify that water cannot be developed for transfer under this program when Exchange Contractor water supply needs are being met from non-CVP water reaching the Mendota Pool. It would appear to us that the transfer of non-CVP water diverted pursuant to the Exchange Contractors' water rights should occur under a different mechanism and authority than the one described in the Notice of Preparation.

If you have any questions regarding these scoping comments, please to not hesitate to contact Steve Ottemoeller at 559-562-6930 or sottemoeller@friantwater.org.

Sincerely,

Ronald D. Jacobsma
General Manager

RDJ:tm

SOUTH DELTA WATER AGENCY

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Mary Hildebrand

Counsel & Manager:
John Herrick

July 20, 2011

Via E-Mail jwhite@sjrecwa.net
Ms. Joann White
San Joaquin River Exchange Contractors Water Authority
P. O. Box 2115
Los Banos, CA 93635

Via E-Mail trust@usbr.gov
Mr. Tim Rust
Bureau of Reclamation
Mid Pacific Region
2800 Cottage Way MP-410
Sacramento, CA 95825-1898

Re: NOP 25-Year Water Transfer Program

Dear Ms. White and Mr. Rust:

The South Delta Water Agency recommends the following issues be examined in the EIR/EIS process:

1. Any transferred water which affects drainage or seepage into the San Joaquin River may result in an increased salt load or an increase in the concentration of salts entering the River. Hence, the water quality in the River in the River before the transfers and after the transfers must be evaluated to determine in the project will adversely affect the environment. For example, if the transfer water remained in the Exchange Contractor system, it would provide flow and dilution to the San Joaquin River, as it would at least in part not be consumed and would not concentrate the salts in the water. However, if that water is transferred to wetlands, more of it is consumed, resulting in greater concentration of the salts. As the wetlands' drainage enters the River, the water quality in the River would then be worse than if the water had remained in the Exchange Contractor's system.

2. If the transferred water is not delivered to purchasers who drain to the San Joaquin River, less flow in the River would then result, also potentially causing an adverse effect on the environment. The impacts on where the purchaser's drainage ends up must also be evaluated.

3. Currently the Central Valley Regional Water Quality Control Board is addressing San Joaquin River water quality (salt) under a TMDL and is in the process of addressing water quality under a new Basin Plan Amendment which will include salinity standards upstream of Vernalis. Any impacts on these processes, especially the current obligations, time lines, and restrictions of the TMDL must be examined. The project proponents should not undertake actions which make the Bureau's compliance under the TMDL more difficult or actions that would frustrate, or make more difficult the setting and enforcement of upstream salinity standards.

4. Similarly, the SWRCB has constituted a process that is evaluating the need to increase River flows for the protection of fisheries. The Bureau and the Exchange Contractors should not undertake a project which would result in any further decrease in River flows which would likely add to the anticipated burden on other parties to supply the greater fishery flows.

5. The project proponents need to explain how the proposed project complies with the restrictions on transfers contained in CVPIA Section 3405 (a) (1) (I). The referenced subsection requires that all CVP transfers be of water that would have been consumptively used or lost to beneficial uses. The clear meaning and intent of this statute is to insure that transfers do not encourage the increased use and demand on uses of water. Since the supply is limited, especially in the CVP and SWP systems, transfer water that does not result from a decrease in use by the seller simply increase the net use of water. When the Exchange Contractors institute water conservation or drainage recovery, they do not decrease their consumptive use of water. If they sell their "conserved" water, they in fact add a new consumptive use demand on the same supply of water. Not only is this bad policy, but it is the very thing the above referenced statute attempts to preclude.

6. The Exchange Contractors have a priority of delivery under the CVP system. If they do not need all of the water delivered to them, the "excess" would be part of the CVP system and allocated under the appropriate rules. Hence, by selling the water they received under a priority, buyers are getting priority water, potentially at the expense of other contractors. Similarly, if the Exchange Contractors do not need all of their contract water, exports out of the Delta may not need to be as high during certain times. Each of these has potential impacts on the environment which need to be evaluated.

7. The Sacramento and San Joaquin watersheds produced only a limited amount of flow each year. The Weber Foundation Report estimated that these watersheds produced

approximately 17.6 MAF each year in a repetition of the 1928-34 drought, but that the in-basin (non-export) needs of those watersheds each year of that same six year period were 25.6 MAF. This means there is an approximate 8 MAF shortage in each year under those scenarios before any water is available for export. As the year types vary, so too would the amount of exports available for the projects. Any proposed transfer of CVP water over a 25 year period must first be reconciled with the supply shortages of the CVP and SWP systems. It is incumbent on the Bureau to identify the amounts available for export under the various year types, then to determine in-basin needs including area of origin and fishery needs before approving a long term transfer. If the export supply of the seller (based on current California water rights priorities) does not exist in some years, and is substantially less than current contract amounts, the environmental impacts of such transfer could be significant, if not illegal.

We look forward to discussing these issues and reviewing the draft documents as they are being produced. Please feel free to contact me if you have any questions.

Very truly yours,

JOHN HERRICK

CHIEF EXECUTIVE OFFICE
Richard W. Robinson
Chief Executive Officer

Patricia Hill Thomas
Chief Operations Officer/
Assistant Executive Officer

Monica Nino-Reid
Assistant Executive Officer

Stan Risen
Assistant Executive Officer

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STANISLAUS COUNTY ENVIRONMENTAL REVIEW COMMITTEE

August 9, 2011

Joann White
San Joaquin River Exchange
Contractors Water Authority
P.O. Box 2115
Los Banos, CA 93635

SUBJECT: **ENVIRONMENTAL REFERRAL – SAN JOAQUIN RIVER EXCHANGE CONTRACTORS WATER AUTHORITY - NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT STATEMENT/ENVIRONMENTAL IMPACT REPORT FOR THE 25-YEAR WATER TRANSFER PROGRAM**

Ms. White:

The Stanislaus County Environmental Review Committee (ERC) has reviewed the subject project and has determined that it may have a significant effect on the environment in the area of agriculture resources. The ERC recommends that you evaluate and quantify the environmental impacts: (1) to agricultural production due to the proposed crop idling/temporary land fallowing; and (2) to agricultural production due to delivery of transfer water to additional areas and contractors not included in the 10-year program EIS/EIR.

In addition, the ERC suggests possible mitigation as giving agricultural use priority in the proposed 25-year water transfer program.

The ERC appreciates the opportunity to comment on this project.

Sincerely,

Raul Mendez, Senior Management Consultant
Environmental Review Committee

cc: ERC Members

RM:kg

O'Laughlin & Paris LLP

Attorneys at Law

SENT VIA ELECTRONIC TRANSMISSION/FIRST-CLASS MAIL

August 10, 2011

Brad Hubbard
Project Manager
Bureau of Reclamation
2800 Cottage Way, MP-410
Sacramento, CA 95825
bhubbard@usbr.gov

Re: Comments on the Scope of the Draft Environmental Impact Statement/Environmental Impact Report for the San Joaquin River Exchange Contractors Water Authority's 25-Year Water Transfer Program

Dear Mr. Hubbard:

These comments on the Scope of the Draft Environmental Impact Statement/Environmental Impact Report ("EIS/EIR") for the San Joaquin River Exchange Contractors Water Authority's ("SJRECWA") 25-Year Water Transfer Program are submitted on behalf of the San Joaquin Tributaries Association ("SJTA"), comprised of the Oakdale Irrigation District, South San Joaquin Irrigation District, Modesto Irrigation District, Turlock Irrigation District and Merced Irrigation District. These comments identify four major concerns that the SJTA feels must be addressed in the environmental analysis for this 25-year water transfer: 1) water quality, 2) in-Delta impacts, 3) dependency on dilution flows from the San Joaquin River Restoration Program ("SJRRP"), and 4) effect new flow objectives for the San Joaquin River Basin will have on the impacts of the proposed transfer.

1. San Joaquin River Water Quality

The impacts of this proposed water transfer on water quality in the San Joaquin River and Delta need to be included in the environmental analysis. As the majority of the water proposed to be transferred, up to 100,000 acre-feet ("AF") of the 150,000 AF total, will consist of recaptured tailwater, it may already contain elevated electrical conductivity ("EC") levels. Upon transfer to wildlife refuges, this water will remain stagnant for several months, during which time salts and trace elements naturally occurring in the soil will leach into this water, further increasing the EC levels.

In 2002, the California Regional Water Quality Control Board for the Central Valley Region issued the TMDL for salt and boron in the San Joaquin River at Vernalis, which required management of wetland discharges to the San Joaquin River because "[d]ischarges from managed wetlands also contribute to the [Lower San Joaquin River's] salt and boron load." (*Total Maximum*

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Daily Load for Salinity and Boron in the Lower San Joaquin River, January 2002, p. 11.) The extent of this contribution, however, is relatively unknown. Only recently have studies been initiated to ascertain the effects of a delayed drawdown of managed wetlands to match peak assimilative capacity in the San Joaquin River. (*See Wetland Response to Modified Hydrology with Respect to Salinity Management: Biological Monitoring*, Grassland Water District, Cal Fed Agreement: P0640003-01, July 1, 2010, p. 3.) As these initial studies have not gone beyond the idea of adjusting the timing of discharges of salt loads into the San Joaquin River, a constant element in managing and maintaining required levels of EC for TMDL compliance is the dependency upon east-side reservoir releases. (*Final Report for Adaptive, Coordinated Real-time Management of Wetland Drainage*, 2005-2006 Consolidated Grants – Proposal 50 Coastal Non-Point Source Pollution Control, SWRCB Agreement No. 04-312-555-1, Berkeley National Laboratory, July 27, 2010, p. 1.)

Additionally, migratory and/or resident waterfowl populations may further impact water quality because waterfowl waste, which often contains viable bacteria and pathogens, can directly affect water quality. (*See The Impact of Waterfowl on Water Quality - Literature Review*, Fleming & Fraser, Ridgetown College, University of Guelph, Ontario, Canada, September 2001.) While there is little conclusive evidence at this time, the impacts of waterfowl waste to water quality appear to vary with species, population density, feeding habits, dilution capacity of the water body, and time of year. (Id. at 10-11.) Moreover, waterfowl species diversity tends to increase when wetland drainage is delayed. (*Final Report for Adaptive, Coordinated Real-time Management of Wetland Drainage*, 2005-2006 Consolidated Grants – Proposal 50 Coastal Non-Point Source Pollution Control, SWRCB Agreement No. 04-312-555-1, Berkeley National Laboratory, July 27, 2010, p. 25.)

Studies are few and data is limited, therefore the environmental impacts of wetland drainage on EC levels and waterfowl pollution on water quality are not known and must be evaluated in the EIS/EIR. Specifically, the EIS/EIR must evaluate the impacts of the continued application of tailwater with elevated EC levels to wetlands, the increased level of EC – due to leaching – in water discharged from wetlands, varying the timing of discharges, and waterfowl waste.

A fastidious and comprehensive evaluation of the water quality impacts associated with the proposed water transfer must be considered and, to the extent necessary, the significant impacts must be mitigated. However, the other water right holders within the San Joaquin River Basin, including the SJTA's members, are required to release water from east-side reservoirs to meet water quality objectives. As such, the EIS/EIR must evaluate the impacts to these water right holders should they be required to make water available in amounts, quality or timing different from their current obligations as a result of the proposed transfer.

One possible alternative that should be considered and evaluated in the EIS/EIR is a transfer of only 70,000-80,000 AF to the wildlife refuges and the release of the remaining transfer water into the San Joaquin River when simultaneously draining the water from the wildlife refuges, as the dilution may improve water quality.

2. Impact on the Delta

As this proposed water transfer involves additional pumping from the Delta at the Banks Pumping Plant, the impacts on water quality, fish and existing consumptive uses in the Delta must be evaluated in the EIS/EIR. By pumping additional water via Banks, the San Joaquin River flow may be impacted in the Delta. Both the Delta smelt and the salmon OCAP biological opinions have been issued because the current conditions in the Delta have negatively affected these fish. Thus, the impacts of this additional pumping on Old and Middle River flows must be evaluated.

Additionally, water quality in the Delta must be studied. Although the water proposed to be transferred is, in theory, from the Sacramento River, the Department of Water Resources modeling has shown that the majority of the water pumped at Banks in the Delta consists of water that comes from the San Joaquin River, which is of much poorer quality than Sacramento River water. Thus, the EIS/EIR must evaluate the effects that the increase in pumping, application, and discharge of this poorer quality water will have, especially since its quality will only continue to deteriorate as it is pumped, used and discharged continuously.

Furthermore, the EIS/EIR must evaluate whether the United States Bureau of Reclamation ("Bureau") has a permit or license to pump San Joaquin River flow at Banks. The water rights, exchanges, and contracts that are the basis for this proposed transfer must be clearly delineated. Given the timing of the proposed transfer of water, the EIS/EIR must identify whether the SJRECWA will be transferring water pursuant to its pre-1914 appropriative direct diversion right or whether the water is simply Bureau water for which SJRECWA has contracted to exchange.

3. Dependency on SJRRP Flows

The SJRRP expects to restore flows to the San Joaquin River from Friant Dam to the confluence of the Merced River, while also restoring a self-sustaining Chinook salmon fishery in the river. In 2009, the first interim flows were released from Friant Dam. These interim flows will continue to be released until full restoration flows are released on January 1, 2014. This program, however, is still in development and the full restoration flows have not yet been determined.

Any dependency the parties to this proposed water transfer may have upon these additional flows, as a means to dilute the potentially polluted water drained from the wildlife refuges, must be taken into consideration in evaluating the environmental impacts of the water transfer. Such evaluation must include the possibility of no additional flows in the event the SJRRP is not implemented, or reduced additional flows if the SJRRP in implemented differently from expected. Additionally, if the SJRECWA contemplates receiving full-entitled exchange water from the Bureau if the SJRRP is implemented, the impacts of this too must be evaluated in the EIS/EIR.

4. Bay Delta Plan

The State Water Resources Control Board ("SWRCB") is currently engaged in a process to review and update the flow objectives contained in the 2006 Water Quality Control Plan for the San

Joaquin River Basin. While no such objectives have yet been established, the SWRCB has indicated that such objectives will be adopted by 2011. (http://www.waterboards.ca.gov/waterrights/waterissues/programs/bay_delta/sds_srjf/docs/sds_srjf_timeline.pdf). Moreover, the SWRCB is presently informing the interested parties that there likely will be new flow objectives for the San Joaquin River, and that such objectives will require a flow at Vernalis of between 20 and 60 percent of unimpaired flow for the months of February through June. (http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/bay_delta_plan/water_quality_control_planning/docs/notice_sjr_flow_southern_delta_scoping_mtg_with_attachments.pdf). As such, the EIS/EIR must evaluate whether or not water will be available for transfer assuming a requirement that 20-60 percent of unimpaired flow is required and, if less water is available for transfer than is currently contemplated, the impacts associated with a smaller transfer.

Conclusion

Until recently, discharges from wetlands have not been studied and little data exists regarding their impacts on the environment. Therefore, an extensive, detailed evaluation of the impacts this proposed water transfer will have on water quality in the San Joaquin River and on the Delta need to be evaluated in the EIS/EIR. Moreover, given the likelihood that the SJRRP will provide at least some additional flow to the San Joaquin River, and new flow objectives will be established at Vernalis, the EIS/EIR must evaluate the impacts of the proposed water transfer in light of these changing conditions.

Very truly yours,

O'LAUGHLIN & PARIS LLP

TIM O'LAUGHLIN

TO/tb
cc: SJTA (via email only)

Attachment A3

State Clearinghouse Letter

STATE OF CALIFORNIA

GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH

STATE CLEARINGHOUSE AND PLANNING UNIT

EDMUND G. BROWN JR.
GOVERNOR

KEN ALEX
DIRECTOR

Notice of Preparation

June 20, 2011

To: Reviewing Agencies

Re: 25-Year Water Transfer Program for the San Joaquin River Exchange Contractors Water Authority (2014-2038)
SCH# 2011061057

Attached for your review and comment is the Notice of Preparation (NOP) for the 25-Year Water Transfer Program for the San Joaquin River Exchange Contractors Water Authority (2014-2038) draft Environmental Impact Report (EIR).

Responsible agencies must transmit their comments on the scope and content of the NOP, focusing on specific information related to their own statutory responsibility, within 30 days of receipt of the NOP from the Lead Agency. This is a courtesy notice provided by the State Clearinghouse with a reminder for you to comment in a timely manner. We encourage other agencies to also respond to this notice and express their concerns early in the environmental review process.

Please direct your comments to:

Joann White
San Joaquin River Exchange Contractors Water Authority
P.O. Box 2115
Los Banos, CA 93635

with a copy to the State Clearinghouse in the Office of Planning and Research. Please refer to the SCH number noted above in all communications concerning this project.

If you have any questions about the environmental document review process, please call the State Clearinghouse at (916) 445-0613.

Sincerely,

Scott Morgan
Director, State Clearinghouse

Attachments
cc: Lead Agency

Document Details Report
State Clearinghouse Data Base

SCH# 2011061057
Project Title 25-Year Water Transfer Program for the San Joaquin River Exchange Contractors Water Authority (2014-2038)
Lead Agency San Joaquin River Exchange Contractors Water Authority

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Type NOP Notice of Preparation

Description The purpose of the proposed Program is to allow the annual transfer and/or exchange of CVP water from the Exchange Contractors to continue after February 28, 2014 (water year 2013), to consider alternatives of additional conservation water transfers under specified conditions, and to provide for the alternative of delivery of transfer water to additional areas and contractors no included in the 10-year program EIS/EIR.
The action/project alternatives to be evaluated in the EIS/EIR involve multiple sources of developed water and multiple users of that water. The Exchange Contractors proposed to develop water from a conservation/tailwater recovery program and crop idling/temporary land fallowing.

Lead Agency Contact

Name Joann White
Agency San Joaquin River Exchange Contractors Water Authority
Phone 209-827-8616 **Fax**
email
Address P.O. Box 2115
City Los Banos **State** CA **Zip** 93635

Project Location

County Fresno, Madera, Merced, Stanislaus
City
Region
Cross Streets
Lat / Long
Parcel No.
Township **Range** **Section** **Base**

Proximity to:

Highways Hwy 99, 5, 145, 33, 152
Airports
Railways Yes
Waterways San Joaquin, Stanislaus, Tuolumne & Merced Rivers
Schools
Land Use Open Space, Agriculture, Wildlife Refuge

Project Issues Agricultural Land; Air Quality; Archaeologic-Historic; Biological Resources; Economics/Jobs; Other Issues; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Wildlife; Growth Inducing; Landuse; Cumulative Effects

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Reviewing Agencies Resources Agency; Department of Boating and Waterways; Central Valley Flood Protection Board; Department of Parks and Recreation; Department of Water Resources; Department of Fish and Game, Region 4; CA Department of Public Health; Delta Protection Commission; Native American Heritage Commission; Public Utilities Commission; State Lands Commission; Caltrans, District 6; Caltrans, District 10; State Water Resources Control Board, Division of Water Quality; State Water Resources Control Board, Division of Water Rights

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Date Received 06/20/2011 **Start of Review** 06/20/2011 **End of Review** 07/19/2011

Note: Blanks in data fields result from insufficient information provided by lead agency.

NOP Distribution List

County: Fresno, Merced, Stanislaus, Madera SCH# 2011061057

esources Agency

- Resources Agency
  Nadell Gayou
- Dept. of Boating & Waterways
  Mike Sotelo
- California Coastal Commission
  Elizabeth A. Fuchs
- Colorado River Board
  Gerald R. Zimmerman
- Dept. of Conservation
  Jonathan Martis
- California Energy Commission
  Eric Knight
- Cal Fire
  Allen Robertson
- Central Valley Flood Protection Board
  James Herota
- Office of Historic Preservation
  Ron Parsons
- Dept of Parks & Recreation
  Environmental Stewardship Section
- California Department of Resources, Recycling & Recovery
  Sue O'Leary
- S.F. Bay Conservation & Dev't. Comm.
  Steve McAdam
- Dept. of Water Resources
  Resources Agency
  Nadell Gayou

_____
Conservancy

h and Game

- Depart. of Fish & Game
  Scott Flint
  Environmental Services Division
- Fish & Game Region 1
  Donald Koch
- Fish & Game Region 1E
  Laurie Harnsberger
- Fish & Game Region 2
  Jeff Drongesen
- Fish & Game Region 3
  Charles Armor
- Fish & Game Region 4
  Julie Vance
- Fish & Game Region 5
  Leslie Newton-Reed
  Habitat Conservation Program
- Fish & Game Region 6
  Gabrina Gatchel
  Habitat Conservation Program
- Fish & Game Region 6 I/M
  Brad Henderson
  Inyo/Mono, Habitat Conservation Program
- Dept. of Fish & Game M
  George Isaac
  Marine Region

Other Departments

- Food & Agriculture
  Steve Shaffer
  Dept. of Food and Agriculture
- Depart. of General Services
  Public School Construction
- Dept. of General Services
  Anna Garbeff
  Environmental Services Section
- Dept. of Public Health
  Bridgette Binning
  Dept. of Health/Drinking Water

Independent Commissions,Boards

- Delta Protection Commission
  Linda Flack
- Cal EMA (Emergency Management Agency)
  Dennis Castrillo
- Governor's Office of Planning & Research
  State Clearinghouse
- Native American Heritage Comm.
  Debbie Treadway
- Public Utilities Commission
  Leo Wong
- Santa Monica Bay Restoration
  Guangyu Wang
- State Lands Commission
  Marina Brand
- Tahoe Regional Planning Agency (TRPA)
  Cherry Jacques

Business, Trans & Housing

- Caltrans - Division of Aeronautics
  Sandy Hesnard
- Caltrans - Planning
  Terri Pencovic
- California Highway Patrol
  Scott Loetscher
  Office of Special Projects
- Housing & Community Development
  CEQA Coordinator
  Housing Policy Division

Dept. of Transportation

- Caltrans, District 1
  Rex Jackman
- Caltrans, District 2
  Marcelino Gonzalez
- Caltrans, District 3
  Bruce de Terra
- Caltrans, District 4
  Lisa Carboni
- Caltrans, District 5
  David Murray
- Caltrans, District 6
  Michael Navarro
- Caltrans, District 7
  Elmer Alvarez
- Caltrans, District 8
  Dan Kopulsky
- Caltrans, District 9
  Gayle Rosander
- Caltrans, District 10
  Tom Dumas
- Caltrans, District 11
  Jacob Armstrong
- Caltrans, District 12
  Marlon Regisford

Cal EPA

Air Resources Board

- Airport Projects
  Jim Lerner
- Transportation Projects
  Douglas Ito
- Industrial Projects
  Mike Tollstrup

- State Water Resources Control Board
  Regional Programs Unit
  Division of Financial Assistance
- State Water Resources Control Board
  Student Intern, 401 Water Quality Certification Unit
  Division of Water Quality
- State Water Resouces Control Board
  Phil Crader
  Division of Water Rights
- Dept. of Toxic Substances Control
  CEQA Tracking Center
- Department of Pesticide Regulation
  CEQA Coordinator

Regional Water Quality Control Board (RWQCB)

- RWQCB 1
  Cathleen Hudson
  North Coast Region (1)
- RWQCB 2
  Environmental Document Coordinator
  San Francisco Bay Region (2)
- RWQCB 3
  Central Coast Region (3)
- RWQCB 4
  Teresa Rodgers
  Los Angeles Region (4)
- RWQCB 5S
  Central Valley Region (5)
  - RWQCB 5F
    Central Valley Region (5)
    Fresno Branch Office
  - RWQCB 5R
    Central Valley Region (5)
    Redding Branch Office
- RWQCB 6
  Lahontan Region (6)
  - RWQCB 6V
    Lahontan Region (6)
    Victorville Branch Office
- RWQCB 7
  Colorado River Basin Region (7)
- RWQCB 8
  Santa Ana Region (8)
- RWQCB 9
  San Diego Region (9)

- Other _____

Last Updated 6/13/11