**From:** Patricia Schifferle [mailto:pacificadvocates@hotmail.com]
**Sent:** Friday, March 25, 2011 1:47 PM
**To:** mbanonis@usbr.gov
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**Subject:** Comments on Draft EA/FONSI for Recirculation of Recaptured Water Year 2011 San Joaquin River Restoration Program Interim Flows EA

Dear Michelle Banonis:

Please find the attached comments from the above groups regarding the proposed plan to divert up to 260,000 acre feet of San Joaquin River flows prior to reaching the Delta in the proposed Draft EA/FONSI for Recirculation of Recaptured Water Year 2011 San Joaquin River Restoration Program Interim Flows EA.

Let me know if there are any problems receiving these comments.

Thank you,

Patricia Schifferle

Patricia Schifferle
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March 25, 2011

Michelle Banonis
Mid Pacific Region
U.S. Bureau of Reclamation, MP-170
2800 Cottage Way
Sacramento, CA 95828-1898

**Subject: Comments on Draft EA/FONSI for Recirculation of Recaptured Water Year 2011 San Joaquin River Restoration Program Interim Flows EA**

Dear Ms. Banonis:

It is our understanding that Reclamation proposes to recirculate and recapture up to 260,000 AF of San Joaquin River Restoration Program Interim Flows released from Millerton Dam for consumptive water use.

We find that the Draft EA and FONSI do not provide sufficient information to arrive at an informed decision regarding the environmental impacts of such a complex project. In particular, Sec 16(a) (1) of the San Joaquin River Settlement states: "*The Plan shall… (1) ensure that any recirculation, recapture, reuse, exchange or transfer of the Interim Flows and Restoration Flows shall have no adverse impact on the Restoration Goal, downstream water quality or fisheries*"

However, the Draft EA contains no analysis whatsoever of water quality or downstream fishery issues, such as meeting salinity requirements of SWRCB Order D-1641, the operational requirements of the various downstream Biological Opinions including Delta smelt and salmon, as well as, other water quality requirements for selenium, boron and nutrients. We point out that Reclamation and the California Department of Water Resources have been issued a Cease and Desist Order regarding ongoing violation of D-1641 water quality requirements. The Draft EA should disclose how implementation of the project will not adversely affect downstream water quality and how all downstream regulatory requirements will be met.

We also note that SWRCB Water Right Order 2010-0029-DWR modifying Reclamation's water rights for this project specifically states: "*Any San Joaquin River water temporarily stored or routed through San Luis Reservoir shall not be delivered to south-of-Delta contractors other than Friant Division Contractors. The water need not be directly delivered, but can be made available through transfers and exchanges. Reclamation shall document that it has taken all practicable measures to provide contract water to the Friant Division Contractors, while complying with all other conditions of this Order.*"

We understand this language to mean no one but Friant Division Contractors have a claim on the recirculation water "stored" in San Luis Reservoir, but provided all state laws and federal laws are met perhaps Friant Division Contractors can sell it to others. Any sales, leases or exchanges should be fully disclosed. All impacts including delivering this water to toxic soils on the west side of the San Joaquin Valley should be analyzed for water quality impacts to ground water supplies, drinking water supplies and the beneficial uses of the San Joaquin River harmed by increasing these toxic drainage discharges. The Draft EA needs to disclose in plain English the reality of this reading of the statutes and let the public know specifically what Friant Division Contractors are entitled to do with the water and the resulting associated impacts.

The present Draft EA is confusing. The relationship with other or existing water sales, exchanges and transfers is not provided. Further confusing is how to reconcile the SWRCB order with this proposal. The Draft EA explains on page (6) that "*Friant contractors may transfer or exchange their water to other Friant or non-Friant CVP or SWP contractors, not in excess of the existing non-Friant contractor's CVP contract allocation.*" The SWRCB Order prohibits any increase in non-Friant SOD water supplies, not a prohibition on increasing water above existing contract amounts. The Draft EA needs to fully disclose how to reconcile these state and federal actions. For example Reclamation has approved sales and exchanges to Westlands Water District of surface water supplies from Friant contractors, whereby these Friant contractors would use substitute supplies or groundwater supplies. Are there associated transfers made possible by the recirculation of the San Joaquin River water that will change surface or

groundwater uses? The impacts to surrounding groundwater users, increased pollution from the importation of water to irrigate toxic soils and other cumulative impacts on downstream users' fish, and wildlife needs to be disclosed and addressed.

It is also our understanding that every one of the 28 long term Friant Division contractors must decline to receive any Section 215 surplus water before that water can be delivered to non-Friant contractors. The Reclamation has provided notice, that Section 215 surplus supplies are likely to be available in water year 2011. This condition is not disclosed and explained to the public. This is a long term contract provision guaranteeing Friant contractors a "first right of refusal" to such periodic surplus flows out of Friant Dam. Reclamation should capture and make publicly available documentation demonstrating that all 28 Friant districts have formally declined the 'surplus flows' in question before authorizing any transfer of the water to non-Friant SOD contractors.

Specifically further disclosure and clarification is also needed at:

1. Page 38: The document should indicate conveyance capacity of the California Aqueduct.
2. Page 41: It is not clear how recirculated San Joaquin River water will end up in San Luis Reservoir if recirculation does not occur under the No Action Alternative. Wouldn't the water flow to the Delta instead? If there is a chance for "spilling" at San Luis Reservoir under No Action, wouldn't this result in reduced Delta exports and improved water quality in the South Delta, a beneficial impact?

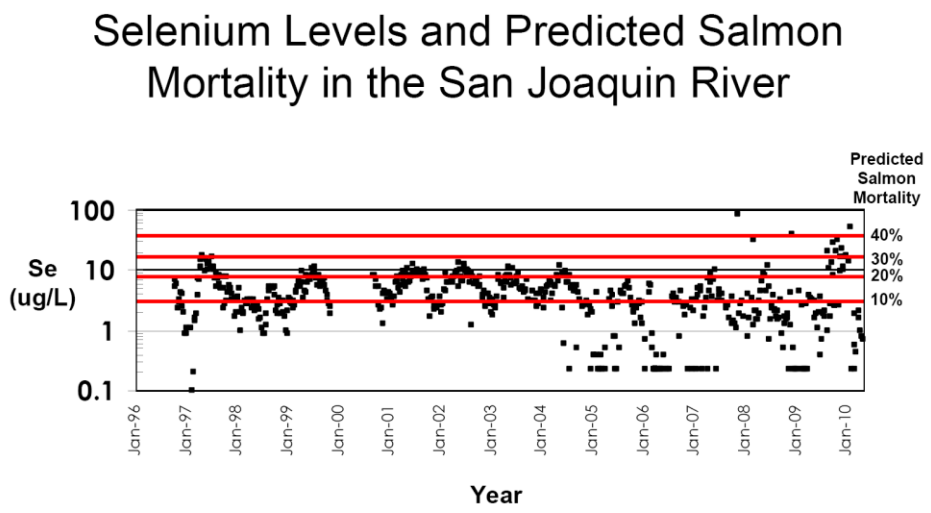
**Land Use:** Given that the project could result in increased deliveries to saline, seleniferous lands such as San Luis Unit contractors, the document fails to disclose the impact of increasing these pollutants and metals such as selenium discharges to surface and/or groundwater. The amount of salt, boron and selenium created by irrigation of an acre of such land can be calculated from the Broadview Contract Assignment EA in 2004 (Reclamation), which calculated reductions in those pollutants as a result of retiring the Broadview Water District. The savings estimated from the Broadview Contract Assignment by acre are as follows: Salt- 1.57 tons/acre; Boron- 4.81 pounds/acre; Selenium- .139 pounds/acre. The EA should assume that increased water deliveries to similar soils will result in the creation of similar amounts of pollution discharged either to groundwater or surface waters. The EA and FONSI should disclose these impacts if water is transferred from Friant contractors to non-Friant contractors that have soils containing salts, metals such as selenium, boron and other contaminants.

**Biological Resources:** The Draft EA should consider an alternative using some of the recirculated water to provide full Level 2 and/or Level 4 Refuge Water supplies.

If the project provides water to seleniferous saline lands that drain into Mud Slough, Salt Slough or the Grasslands Bypass Project, or result in ponding, there could be impacts to species covered by the Migratory Bird Treaty Act. The Grasslands Bypass Project has documented selenium mortality and elevated levels of selenium in birds covered by the MBTA.

**Air Quality and Global Climate Change:** Under the Proposed Action, the statement that electric motors do not emit greenhouse gases or air pollutants is completely misleading. While it is true that electric pumps don't discharge air pollutants, the energy sources for those pumps either uses greenhouse gases, or the increased energy use causes more fossil fuels to be burned. The document cannot claim that there are no impacts from the Proposed Action due to increased use of electric pumps. Electric pumps are also used for groundwater pumping, which is claimed to be a significant air quality impact of No Action. This type of analysis is not adequate. In order to make an adequate analysis and conclusion, there would have to be a comparison of the amount of electricity used for increased groundwater pumping as compared to increased pumping from recirculation. The analysis would also have to determine the amount of increased groundwater pumping, which is currently not disclosed.

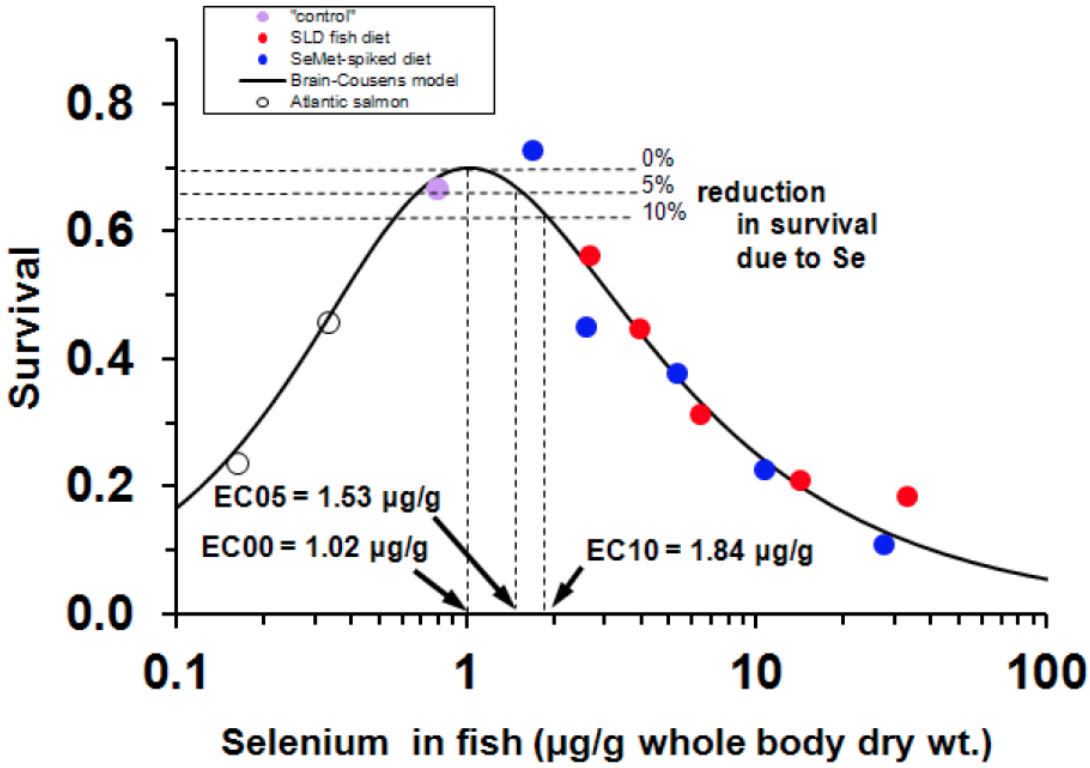
**Cumulative Impacts** The Draft EA does not address cumulative impacts of irrigating seleniferous lands and the negative impact on the San Joaquin River Restoration Program. Selenium concentrations at Hills Ferry averaged over 15.6 ppb from Aug 11, 2009 to Jan 20, 2010. In 2009, selenium exceeded public drinking water standards measuring 52 ppb. See the charts below for impacts to juvenile salmonids from selenium exposure (Beckon, Pers Comm).




Selenium concentrations measured in the San Joaquin River at Hills Ferry (data from the U.S. Bureau of Reclamation)

| Mortality | Tissue selenium | Water selenium |
|---|---|---|
| Percent | µg/g whole body dry wt. | µg/L |
| 5% | 1.531 | 1.92 |
| 10% | 1.844 | 3.31 |
| 20% | 2.486 | 7.98 |
| 30% | 3.273 | 17.92 |
| 40% | 4.336 | 41.01 |
| 50% | 5.901 | 101.57 |
| 60% | 8.447 | 291.87 |

These data are based on the following relationship and on Mike Saiki's data for juvenile salmon bioaccumulation in the SJ River. Depending on what model you use, and how you round off, you get slight variations from these numbers.




The Draft EA does not include any of the mitigation measures identified in SWRCB WRO 2010-0029 (DWR). All of those mitigation measures should be included.

We urge the Reclamation to either prepare a full Environmental Impact Statement or reissue the Draft EA and FONSI with additional analyses of downstream water quality effects, clarification of the apparent discrepancy between SWRCB WRO 2010-0029 (DWR), full disclosure of the biological and water quality impacts of applying additional water on saline, selenium soils, as well as an adequate analysis on air quality and greenhouse gases. Alternately, if the required analyses are complete and there are significant environmental impacts, Reclamation should complete a full environmental statement of this proposed transfer where up the amounts of water, the timing of transfer and the acreage and locations

are clearly defined for the benefit of the public understanding along with the impacts to areas of origin, ground water aquifers, and the local areas transferring out "surplus" supplies. This Draft EA proposes up to 260,000 acre feet of water can be diverted before reaching the Delta estuary without harm to the San Joaquin River restoration effort and the estuary. Insufficient analysis is provided to scientifically support this conclusion.

Thank you for the opportunity to comment. Please add us to your notification list for this project.

Respectfully submitted,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**Interested Parties**