

**UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION**

MID-PACIFIC REGION

FINDING OF NO SIGNIFICANT IMPACT

**Recirculation of Recaptured Water Year 2011 San
Joaquin River Restoration Program Interim Flows**

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Recirculation of Recaptured Water Year 2011 San Joaquin River Restoration Program Interim Flows

In accordance with section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, as amended, the San Joaquin River Restoration Program (SJRRP) Office and the South-Central California Area Office of the U.S. Bureau of Reclamation (Reclamation), has determined that the execution of transfer and exchange agreements to recirculate up to 260,000 acre-feet (AF) of water from San Luis Reservoir, recaptured as a result of SJRRP Water Year 2011 Interim Flows, is not a major federal action that would significantly affect the quality of the human environment and an environmental impact statement is not required. This Finding of No Significant Impact is supported by Reclamation's Environmental Assessment (EA), *Recirculation of Recaptured Water Year 2011 San Joaquin River Restoration Program Interim Flows*, and is hereby incorporated by reference.

Background

In 1988, a coalition of environmental groups, led by the Natural Resources Defense Council (NRDC), filed a lawsuit challenging renewal of long-term water service contracts between the United States and Central Valley Project (CVP) Friant Division contractors. After more than 18 years of litigation of this lawsuit, known as *NRDC, et al., v. Kirk Rodgers, et al.*, a Settlement was reached. On September 31, 2006, the Settling Parties, including NRDC, Friant Water Users Authority (FWUA), and the U.S. Departments of the Interior and Commerce, agreed on the terms and conditions of the Settlement, which was subsequently approved by the U.S. Eastern District Court of California (Court) on October 23, 2006. The Settlement establishes two primary goals:

- Restoration Goal – To restore and maintain fish populations in “good condition” in the mainstem San Joaquin River below Friant Dam to the confluence of the Merced River, including naturally reproducing and self-sustaining populations of salmon and other fish.
- Water Management Goal – To reduce or avoid adverse water supply impacts on all of the Friant Division long-term contractors that may result from the Interim Flows and Restoration Flows provided for in the Settlement.

The planning and environmental review necessary to implement the Settlement is authorized under Section 3406(c)(1) of the Central Valley Project Improvement Act (Public Law 102-575) and the San Joaquin River Restoration Settlement Act (Act), included in Public Law 111-11, the Omnibus Public Land Management Act of 2009. The Secretary of the Interior is authorized and directed to implement the terms and conditions of the Settlement through the Act. The San Joaquin River Restoration Program (SJRRP) will implement the Settlement. The Settlement identifies the need for a plan for recirculation, recapture, reuse, exchange or transfer of Interim Flows to reduce or avoid impacts to Friant long-term contractors.

The Water Management Goal of the Settlement and Act includes a requirement for the development and implementation of a plan for recirculation, recapture, reuse, exchange or transfer of interim flows for the purpose of reducing or avoiding impacts to water deliveries to all of the participating Friant Division long-term contractors. Paragraph 16 of the Settlement states:

16. In order to achieve the Water Management Goal, immediately upon the Effective Date of this Settlement, the Secretary, in consultation with the Plaintiffs and Friant Parties, shall commence activities pursuant to applicable law and provisions of this Settlement to develop and implement the following:

(a) A plan for recirculation, recapture, reuse, exchange or transfer of the Interim Flows and Restoration Flows for the purpose of reducing or avoiding impacts to water deliveries to all of the Friant Division long-term contractors caused by the Interim Flows and Restoration Flows. The plan shall include provisions for funding necessary measures to implement the plan. 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;

(2) be developed and implemented in accordance with all applicable laws, regulations and standards. The Parties agree that this Paragraph 16 shall not be relied upon in connection with any request or proceeding relating to any increase in Delta pumping rates or capacity beyond current criteria existing as of the Effective Date of this Settlement;

(3) be developed and implemented in a manner that does not adversely impact the Secretary's ability to meet contractual obligations existing as of the Effective Date of this Settlement; and

(4) the plan shall not be inconsistent with agreements between the United States Bureau of Reclamation and the California Department of Water Resources existing on the Effective Date of this Settlement, with regard to operation of the CVP and State Water Project.

Proposed Action

Recaptured water available for transfer to the Friant Division long-term contractors (Friant contractors) as a result of releases of flows from Friant Dam from the implementation of the SJRRP Interim Flows for Water Year 2011, specified as October 1, 2010 through September 30, 2011, is estimated to be up to 260,000 acre-feet (AF) of the CVP Friant Division Class 1 and 2 water supplies. This recaptured water will be available at San Luis Reservoir (SLR) through direct delivery to the Friant Division or through transfers and exchanges between Friant contractors and non-Friant contractors when the water is put to beneficial use. Condition 2 of the California State Water Resources Control Board, Corrected Order WR 2010-0029-DWR (Order) 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.”

The Federal action would involve Reclamation entering into various delivery, transfer, or exchange agreements to recirculate the recaptured water to the Friant contractors. The deliveries, transfers, and exchanges would be completed through several mechanisms utilizing potential Federal, state, and local facilities. The recaptured water will be recirculated back to the listed Friant contractors whose supplies may be impacted by Water Year 2011 Interim Flow releases, as Class 1 or 2 supplies. 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 Proposed Action is a multi-faceted approach and consists of transfers and exchanges that could occur up to a maximum quantity, not exceeding any Friant contractor’s Class 1 or 2 CVP contract water supply, or exceeding the non-Friant contractor’s CVP contract allocation. This Proposed Action is described as follows:

The Proposed Action would have recaptured WY 2011 Interim Flows made available in Millerton Lake as a result of exchanges with other Friant contractors or south-of-Delta (SOD) contractors. SOD contractors will exchange a like amount of their water supplies to be made available to Friant contractors. The water then made available would be integrated into Friant Division Class 1 and 2 supplies to fulfill CVP contract allocations.

SOD contractors or Friant contractors could also take delivery of recaptured water made available in SLR via a transfer with any of the 29 Friant contractors. Essentially, Friant contractors can transfer water between themselves or SOD contractors. Reclamation would facilitate this transfer of recaptured WY 2011 Interim Flows with the Friant contractors, and through stipulations present in existing agreements. These transfers shall not exceed the SOD or Friant contractor’s total CVP allocation.

The options presented here will not exceed a combined total of up to 260,000 AF of recaptured WY 2011 Interim Flows being moved out of SLR through recirculation and to water districts through deliveries, transfers, and exchanges. The exact totals transferred from or to, or exchanged between districts through this process shall not exceed any district’s total CVP or contract allocation.

Transfers and exchanges shall further be subject to the following parameters:

- Transfers and exchanges addressed in this EA are solely transfers or exchanges of CVP and SWP water between Friant contractors and SOD contractors or transfers or exchanges that occur within Friant and SOD geographical areas.
- There would be no restriction on directionality – transfers do not require return transfers at a later date or year.
- Transfers or exchanges must occur within the CVP or SWP consolidated Place-of-Use.
- No native or untilled land (fallow for three consecutive years or more) would be cultivated with the water involved in these actions.

- Transferred water can be either Agricultural (Ag) or Municipal and Industrial (M&I) water.
- The ultimate purpose of use can be for Ag, M&I purposes, fish and wildlife purpose and or groundwater recharge.
- Transfers would be completed between March 1 and February 28 or February 29 of any contract year.
- All transfers and exchanges will be between willing sellers and willing buyers.
- Transfers or exchanges would occur without new construction or modifications to facilities.
- Transfers or exchanges are limited to existing supply and will not increase overall consumptive use.
- Transfers or exchanges for Ag would be used on lands irrigated within the last three consecutive years.
- Transfers or exchanges would not lead to any land conversions.
- Transfers or exchanges would comply with all applicable Federal, State, Local or Tribal laws or requirements imposed for the protection of the environment and Indian Trust Assets (ITA).
- Transfers or exchanges cannot alter the flow regime of natural water bodies such as rivers, streams, creeks, ponds, pools, wetlands, etc., so as not to have a detrimental effect on fish or wildlife, or their habitats.

The Proposed Action only covers water stored in reservoirs as a result of WY 2011 Interim Flows. The Proposed Action does not cover transfers, exchanges, or deliveries that do not include recaptured San Joaquin River Restoration Program water.

Reclamation posted the draft EA/FONSI for public review and comment on Reclamation's website. The public review period began March 8, 2011 and ended March 25, 2011.

Reclamation received ## comments during the review period, which are addressed in Appendix # of the EA.

Reclamation's finding that implementation of the Proposed Action will result in no significant impact to the human environment is supported by the following findings:

FINDINGS

Water Resources

The Proposed Action will not change the overall water supply. The exchanges and transfers would utilize existing facilities for conveyance of water. This would not increase or decrease existing CVP allocations. Water moved through this process would not require additional diversion and would not impact the overall existing operations of the water districts or their facilities. The Friant contractors or SOD contractors would not experience any loss or gain in water supply as a result of the Proposed Action.

Land Use

The Proposed Action will not result in changes to land use. There would be no land conversions or land fallowing as a result of the transfer or exchange of SJRRP recirculation water. The

Proposed Action is short-term and would not provide a long-term reliable supply to support long-term land use changes.

Biological Resources

The Proposed Action will not result in impacts to biological resources, including listed species, designated critical habitat, or species listed under the Migratory Bird Treaty Act. No Essential Fish Habitat is listed within the Proposed Action area. Existing facilities will be used to transfer and exchange water and water will be delivered to existing agricultural lands. No land use or habitat changes would occur as a result of the Proposed Action.

Cultural Resources

The Proposed Action will not result in impacts to cultural resources. Transfers and exchanges of water would occur through existing facilities and delivered within existing service area boundaries. The Proposed Action would not result in the modification of existing facilities, construction of new facilities, changes in land use, or growth.

Indian Trust Assets

The Proposed Action will not result in impacts to Indian Trust Assets (ITA). Approval of transfers and exchanges between water districts would not involve any construction and would utilize existing conveyance facilities. Therefore, the Proposed Action would not impact ITA.

Socioeconomic Resources

The Proposed Action will not impact socioeconomic resources. There would be no increases or decreases of agricultural production, urbanization, construction, or other changes as a result of the transfer and exchange of water between the districts. The Proposed Action would assist in sustaining existing agricultural production.

Environmental Justice

The Proposed Action would not disproportionately impact economically disadvantaged or minority populations. Water transfers and exchanges would not result in employment gain or loss, but would result in sustained job rates for agricultural workers.

Air Quality

The Proposed Action will not result in impacts to air quality. The movement of water between districts would be done via gravity flow and/or pumped using electric motors which have no emissions. The Proposed Action would not involve any construction or land disturbance that could lead to fugitive dust emissions or exhaust emissions associated with the operation of construction equipment.

Global Climate Change

The Proposed Action will not result in impacts to global climate change. The movement of water between districts would be done via gravity flow and/or pumped using electric motors which have no emissions. Greenhouse gas emissions would not increase in association with the project.

Cumulative Impacts

Contract execution for the transfer and exchange of recirculation water would not have any controversial or highly uncertain effects, or involve unique or unknown environmental risks. The Proposed Action would not trigger other water service actions and does not contribute to cumulative effects to physical resources when added to other water service actions. The canals, distribution, rivers, creeks, and conveyance facilities associated with the Proposed Action are managed primarily for agricultural supplies. The Proposed Action would not interfere with the deliveries, operations, or cause substantial adverse changes to the conveyance facilities.

The proposed transfers, when added to other actions, do not contribute to significant increases or decreases in environmental conditions. These water service actions are proposed to occur only to distribute up to 260,000 AF of SJRRP recirculation water, and are short-term. These transfer actions are not precedent-setting. The Proposed Action was found to have no impact on water resources, land use, biological resources, cultural resources, ITA, socioeconomic resources, environmental justice, air quality, or global climate change and therefore there is no contribution to cumulative impacts on these resources areas. Overall, there would be no cumulative impacts caused by the Proposed Action.