

**TESTIMONY OF SAN JOAQUIN RIVER EXCHANGE CONTRACTORS WATER
AUTHORITY**

**TO THE WATER AND POWER SUB-COMMITTEE OF THE
HOUSE COMMITTEE ON RESOURCES**

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Testimony by Steve Chedester, Executive Director

Good morning, Chairman Radanovich and members of the Subcommittee. My name is Steve Chedester and I am the Executive Director of the San Joaquin River Exchange Contractors Water Authority. We are commonly referred to as the “Exchange Contractors.” It is my honor today to address you on a matter of crucial importance to the Exchange Contractors.

You have before you legislation that will implement a Settlement Agreement that has been entered into among parties to the litigation instigated by the Natural Resources Defense Council seeking to restore flows for fisheries to the upper San Joaquin River. The Exchange Contractors are not a party to this Settlement Agreement. The Exchange Contractors were nominally represented in the litigation by virtue of our member agencies’ membership in the San Luis & Delta-Mendota Water Authority (“Authority”), a water user group that receives water from the Bureau of Reclamation and which intervened in the subject litigation. The Authority did

not play an active role in the litigation or the settlement, as there was never an opportunity for its interests to be fully aired. However, the Exchange Contractors intend to submit an amicus brief to the District Court raising its concerns with the proposed Settlement. I will provide copies of that brief to the Sub-committee once it is filed.

As you know, the proposed Settlement will obligate the Bureau of Reclamation to release water from Friant Dam in order to protect downstream fisheries. The bulk of this water will come from a reduction of water supplies to the members of the Friant Water Users Authority. These irrigation districts receive water from the Bureau of Reclamation through their contracts entitling them to water from the Central Valley Project. According to the terms of the Settlement Agreement, any additional water will only be provided from willing sellers. The Settlement Agreement also states that there will be no “material adverse effects” on other water users. It is to this issue that we have serious concerns.

The Exchange Contractors is a joint powers authority comprised of four water entities that irrigate 240,000 acres of prime agricultural land in the San Joaquin Valley. Our water rights date back to the 1880’s, when these water rights were first established by Henry Miller and

Charles Lux. The members of the Exchange Contractors are the Central California Irrigation District, Columbia Canal Company, Firebaugh Canal Water District and San Luis Canal Company.

Farmers in our area grow 38 different varieties of permanent and annual crops. There are over 1500 farmers within the combined districts and we support \$400 million of economic output at the farm gate which translates into over a three fold effect to the regional economy. This figure does not include the significant economic output from the dairy industry in our area. Our lands play host to several endangered species and of necessity we are good stewards of the environment. We support solutions for the Bay-Delta ecosystem by providing water for the Vernalis Adaptive Management Plan and providing water to the local wildlife refuges.

While we are not contractors to the Central Valley Project, by virtue of our “exchange contract” and our “purchase contract,” we have exchanged our source of water from the San Joaquin River for a supply from the Central Valley Project via the Delta-Mendota Canal. The development of the exchange contract enabled the development of the Central Valley Project by the Bureau of Reclamation, including the construction and operation of Friant Dam. In the event

that the Bureau of Reclamation is unable to meet its contractual obligations to the Exchange Contractors, we are entitled to resort to our senior water rights and receive a flow of water down the San Joaquin River. This is an important fact, as any increase in capacity to the San Joaquin River for restoration flows must be of a sufficient size to enable the Exchange Contractors to receive their water right entitlement to a flow of 2,316 cfs as is provided for under the exchange and purchase contracts. In other words, as the size of the channel capacity needed for the restoration effort is being considered, capacity must be provided so that the Bureau of Reclamation can meet its obligation to deliver the water the Exchange Contractors are entitled to under their pre-1914 water rights.

The Exchange Contractors have four major concerns with the Settlement Agreement.

These concerns are:

I. WATER RIGHT PROTECTION

It is essential that our contract rights with the Bureau of Reclamation and our historical water rights be honored and protected. The settling parties state in their Settlement Agreement

that they do not believe that there will be impacts to third parties, the legislation then, must unambiguously affirm that the water rights and contract rights of the Exchange Contractors will not ever be adversely affected by this fish restoration program. We do not want to find ourselves in a situation akin to the farmers on the Klamath River.

II. ADEQUATE ENDANGERED SPECIES ACT PROTECTION

In order to protect our water rights and water supply, it is essential that any fishery to be introduced into the upper San Joaquin River not expose the Exchange Contractors to liability under the Endangered Species Act. We believe that it is essential for Congress to direct the Secretary of Commerce to exercise his discretion to designate any fishery reintroduced to the San Joaquin River as a Section 10(j) experimental population. While some have suggested a take exemption under Section 4(d), that option is insufficient as Section 4(d) only protects threatened species, not endangered species.

III. ADEQUATE FUNDING FOR IMPLEMENTING THE MITIGATION MEASURES

We understand that the goal of this program is to restore the salmon fishery to the entire stretch of the San Joaquin River from Friant Dam to the confluence with the Merced River. This 153 mile stretch of river has been without fish flows for over 60 years and many miles of river have been without any flows since 1969. The introduction of fish flows to many sections of the river will cause substantial damage to downstream structures and downstream property unless mitigation measures are in place prior to releasing the flows. As the legislation is currently crafted, it is possible for those entities that will implement the Settlement to construct facilities along this entire stretch of river, release water from Friant Dam and introduce endangered species into that water without ensuring that necessary mitigation measures have been completed.

We do not want half of a project constructed. We also do not want to be in a position of supporting this legislation based on the hope that the terms of a permit to be issued several years from now will protect us.

We believe the costs of this restoration effort could approach \$1 billion dollars in capital costs alone. Inflation will raise the costs over the years and operations and maintenance costs are on top of these capital costs. In as much as Congress will not appropriate the entire cost of this restoration effort at this time, we believe that it is prudent to proceed with the restoration effort on a phased basis.

It is critical to understand that approximately 80% of the channel modifications and mitigation for seepage will occur in our service area and almost all of the fish screening and fish passage costs will occur in the reaches of river that we represent.

There will be impacts and risks shifted to our landowners by this settlement and we are simply requesting that the mitigation required for implementation of the settlement be in place prior to reintroduction of fish flows and salmon.

We do not believe that the two phases identified in the proposed legislation and Settlement Agreement are sufficient. Rather, the restoration effort should be undertaken by river reach starting with the upper most section of the river below Friant Dam. That is an area that will be best suited to the initial planting of fish and will provide the most

suitable habitat of the entire stretch of the upper San Joaquin River. In-stream restoration actions must occur before fisheries can be introduced into that reach of the river. After instream measures and any levees, slurry walls and other mitigation measures are constructed, only then should water be released to a given reach of the river. Any flows that would reach the lower stretches of the river should be bypassed around those reaches until a final route is chosen and mitigation measures are in place.

While analogies are usually dangerous to make, I liken this to the construction of a house. If you have enough money to build a 2 bedroom house you should not frame out for 4 bedrooms only to run out of money without even completing 2 bedrooms. It is better that the 2 bedroom house be constructed up to code and that plans be made for future improvements. This is a prudent course to take for the restoration of the upper San Joaquin River.

To give you an idea of the problems and challenges the restoration effort will face and the risks to adjacent properties that have to be mitigated, I have some photographs and diagrams that show the areas along the San Joaquin River that will be affected.

Attached as Exhibit A are a few photos of the San Joaquin River as it exists today throughout our service area. Additionally we are including as Exhibit B maps of the San Joaquin River from Friant Dam (reach 1) through its confluence with the Merced River (reach 5).

In order to assist the Subcommittee in understanding what work needs to be undertaken along the San Joaquin River, in addition to the photos and maps, I also have attached as Exhibit C a write-up by the engineering firm of CH2MHill analyzing the river reach by reach. Below is a chart summarizing their report. It shows, reach by reach, the work that needs to be done to provide habitat for the salmon and to protect the existing flood control facilities and the adjacent lands and water facilities. The chart and attached analysis also contain cost estimates.

We know you are receiving a number of different cost estimates. We believe those prepared by CH2MHill are reasonably accurate, but perhaps could be defined after in-depth discussions with the Bureau of Reclamation and the California Department of Water Resources. It may interest the Subcommittee to know that CH2MHill's work is

supported by a \$1 million study funded by the EPA and the company is a contractor to the Bureau of Reclamation for purposes of analyzing aspects of the Central Valley Project. In light of this substantial involvement with the CVP, we believe CH2MHill's analysis should be taken quite seriously.

Summary of Costs for San Joaquin River Restoration Actions Assuming a Conveyance Flow of 4,500 cfs and Costs Escalated to 2014			
	Channel and Levee Improvements (Slurry walls, levee setback, etc)	Fish Passage and Screens	Total
Reach 1	\$19,164,000	\$12,474,000	\$31,638,000
Reach 2A	\$173,690,000	\$48,989,000	\$222,679,000
Reach 2B	\$214,394,000	\$52,041,000	\$266,435,000
Reach 3	\$0	\$20,000,000	\$20,000,000
Reach 4A	\$119,568,000	\$46,353,000	\$165,921,000
Reach 4B	\$371,847,000	\$3,706,000	\$375,553,000
Reach 5	\$0	\$2,051,000	\$2,051,000
Total	\$898,663,000	\$185,614,000	\$1,084,277,000
Costs are escalated to Year 2014 dollars using an escalation rate of 6% per year. Fish passage and screen costs from Donahue Expert Report. Fish screen costs added for Mud and Salt sloughs.			

IV. ADEQUATE REPRESENTATION ON AN IMPLEMENTATION

COMMITTEE

The proposed restoration program as ultimately conceptualized by the Settlement Agreement will represent a comprehensive restoration program for the upper San Joaquin River. However, since this is only a conceptual settlement and many specifics are left to implementation, it is essential that all affected parties be entitled to participate in the implementation program. We believe that Congress should direct the settling parties and the federal and state fishery agencies as well as the Bureau of Reclamation to participate in an implementation committee that will include in its membership as co-equal members the affected downstream water interests including the Exchange Contractors, San Joaquin River Tributary Association, the San Luis & Delta-Mendota Water Authority and the San Joaquin River Resources Management Coalition. The purpose of this committee should be to advise the implementing agencies on the impacts of the fishery and river restoration efforts. This committee should be distinct from the settlement implementation committee known as the Technical Advisory Committee comprised of the Natural Resources Defense Council and the Friant Water

Users Authority. Their task is to implement the Settlement Agreement. The task of this other committee should be to restore the upper San Joaquin River in a manner consistent with the Settlement, in a manner that does not adversely impact third parties, and in a manner that sizes the restoration program to the funds that are secure.

In our view, inclusion of the above protections in the subject legislation is essential for our support of the legislation. We do not think this settlement should be put on the backs of other farmers and water users. To that end, we support the water agency draft of proposed amendments to the legislation that we will provide to the committee. We have already provided this legislation to your respective staff.

Thank you very much for allowing me to testify before you today on behalf of the Exchange Contractors. We sincerely hope that we will be able to support this legislation. If our interests are protected, we will be in a position to do so. I am pleased to respond to any questions.