

FWUA Comments on Draft Supplemental Environmental Assessment, Interim Flows Project – Water Year 2011 and Draft Finding Of No New Significant Impact

Comments on Draft FONNSI

Page(s)	Paragraph or Section Number	Specific Language from Document	Comment
1	2 nd	<i>The Proposed Action includes continuation of activities necessary to convey the flows in the San Joaquin River from Friant Dam to the Delta</i>	The flows aren't required to make it to the Delta but to the confluence of the Merced River.
1	3 rd	<i>This document is a joint Supplemental EA/Subsequent IS to the WY 2010 Final EA/IS, and satisfies the requirements of the National Environmental Policy Act (NEPA). Reclamation and DWR are preparing this joint Supplemental EA/Subsequent IS, consistent with their lead roles in preparing the future Program Environmental Impact Statement/Report (PEIS/R) for the implementation of the Settlement and the San Joaquin River Restoration Settlement Act (Act).</i>	The fact that DWR has chosen NOT to prepare a Subsequent IS is inconsistent with this statement, as is the inclusion of a Subsequent Mitigated Negative Declaration with the FONNSI.
2-3	#5	<i>The Proposed Action will be implemented in accordance with the U.S. Fish and Wildlife Service (USFWS) 2008 Delta Smelt Biological Opinion of the Operating Criteria and Plan for the Continued Operations of the Central Valley Project and State Water Project, the National Marine Fisheries Service (NMFS) 2009 Biological and Conference Opinion on the Long-Term Operations of the Central Valley Project and State Water Project</i>	The BO's don't include IF's, so to what extent are the BO's applicable?

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3	#9	<i>The Proposed Action would not substantially deplete groundwater supplies or interfere with groundwater recharge because of a decrease in deliveries to CVP contractors, including the Friant Division long-term contractors.</i>	How can the USBR say that groundwater conditions won't be affected as we don't know the type of year that will occur next year nor the probability of water recapture?
4	#16	<i>Although the Proposed Action would involve reoperation of Friant Dam, and therefore change the distribution of water supplies (e.g., recapture and recirculation), the Proposed Action would not increase demand on water supplies or require new or expanded entitlements. The Proposed Action would have a less-than-significant impact on water deliveries.</i>	This should be explained further as noted above.
5	#19	<i>The Proposed Action will not disproportionately impact minority and disadvantaged populations or communities. Because of the limited duration and extent of the Proposed Action, and the findings that all impacts to related resources areas are less than significant or have no effect whatsoever, it is concluded that the Federal Action under consideration will not disproportionately burden minority groups, low-income populations, or Native American Tribes.</i>	If land fallowing results from a dry year next year, that won't comport with this statement unless significant supplies are recovered.

Comments on Draft SEA

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1-2	1 st	<i>DWR does not have the same discretionary action necessary to implement WY 2011 Interim Flow releases as described in the WY 2010 Final EA/IS. Therefore, there is not a California Environmental Quality Act (CEQA) review requirement for DWR related to the release of WY 2011 Interim Flows.</i>	If the statement is correct, why is there a SMND attached to the Draft FONNSI? Also, if DWR has no CEQA review requirement, a formal statement from DWR should be provided stating that the lack of additional CEQA compliance will not interfere with the ability to recapture and recirculate Interim Flows.
1-3	3 rd	when Buffer Flows (two releases of up to an additional 10 percent of the applicable hydrograph flows)	Delete the word “two”
1-3	4 th	<i>Full Restoration Flows are described in Exhibit B of the Settlement that was provided as Appendix B of the WY 2010 Final EA/IS.</i>	Change <i>Appendix B</i> to <i>Appendix A</i>
1-3	5 th	<i>The general approach to defining these actions includes evaluation of information acquired from ongoing investigations, reported in Annual Technical Reports (ATR), recommendations from the various working groups, (e.g., FMWG), such as those presented in annual implementation plans.</i>	What are annual implementation plans and where can they be found? [Didn't find them at www.restoresjr.net]
1-4	1 st	<i>The overall need to address all issues pertinent to eventually defining restoration actions, including restoration flow, habitat restoration or enhancement, channel modifications, to accommodate the Settlement</i>	This appears to be an incomplete sentence.
1-5	1 st (Section 1.2.2)	<i>CEQA Guidelines require a clearly written statement of objectives, including the underlying purpose of the project (Guidelines Section 15124(b)).</i>	This sentence should be deleted if there is no CEQA compliance required.

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1-6	Table 1-1	<i>July 1</i>	Change to <i>June 8</i>
2-1	2.1	<i>Under CEQA Guidelines section 15125(a), the physical environmental conditions, as they exist at the time of the environmental analysis is commenced, “will normally constitute the baseline conditions by which a Lead Agency determines whether an impact is significant.” (See also CEQA Guidelines §15126.2(a)).</i>	Delete since CEQA compliance is not required.
2-2	2.2.1	<i>These tables include water that would be released for water rights purposes and other deliveries, in combination with implementation of the WY 2011 Interim Flows.</i>	Please explain what the term “other deliveries” means in this context.
2-5	1 st	<i>The actual daily WY 2011 Interim Flow releases (the resulting hydrograph) would be subject to the application of flexible flow provisions described in Exhibit B and other ramping and flow scheduling changes, as recommended by the RA.</i>	There are 2 problems with this statement: first, FWUA does not agree that IF’s are subject to the application of the flexible flow provisions of Exhibit B; second, this sentence implies that Reclamation will give IF decision making authority to the RA.
2-5	1 st	<i>...with consideration of the Settlement’s flexible flow periods...</i>	See above comment.
2-5	Table 2-3	<i>Maximum Interim Flow Release from Friant Dam Under the Proposed Action (cfs)</i>	The flows listed for October 1 through February 28 do not match those in Table 1E of Exhibit B of the Stipulation of Settlement, which would represent the maximum IF release for the current Normal-Wet year. Also, the flows listed for March 1 through September 30 do not match those in Table 1F of Exhibit B of the Stipulation of Settlement, which would represent the maximum IF release (i.e. a Wet water year).

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2-5	Table 2-3, footnote 1	<i>Includes both the fall and spring flexible flow periods as described in Exhibit B of the Settlement.</i>	The Spring flexible flow periods specified in the Settlement are up to four weeks before March 1 and up to four weeks after May 1. The Table does not match those dates.
2-6	1 st	<i>Additional factors considered during implementation of the release of WY 2011 Interim Flows include water supply demand;</i>	Please explain what the term “water supply demand” means in this context.
2-6	3 rd	<i>The Proposed Action includes potential recapture of Interim Flows at several diversion including...</i>	Insert “points” after “diversion”
2-7	1 st	The entire paragraph	This paragraph is somewhat confusing. Suggest it be re-written. It jumps around, both geographically and with respect to “recapture” vs. “recirculation.”
2-7	1 st	<i>No additional agreements would be required to recapture flows in the Restoration Area.</i>	The wildlife refuges have been identified as potential recapture points, and they are in the Restoration Area; therefore, additional agreements would be required to recapture flows in the Restoration Area.
2-7	1 st	<i>Continued implementation of the RPAs or other measures that are in place at the time would avoid jeopardy of protected species, including Central Valley steelhead on the Stanislaus River and Delta, and spring- and winter-run Chinook salmon, green sturgeon, and delta smelt in the Delta (see Section 2.2.8 for further discussion).</i>	This sentence seems to be out of place and does not seem to add to the understanding of the paragraph.
2-7	2 nd	<i>Reclamation would identify actual delivery reductions to Friant Division long-term contractors associated with the release of WY 2011 Interim Flows consistent with Paragraph 16 of the Settlement.</i>	Please specify the timeframe in which Reclamation will make such identification. Presumably it will be within the period this EA covers.

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2-7	3 rd	<i>All recapture actions will be conducted in a manner consistent with Federal, State and local laws, and any agreements with downstream agencies, entities, and landowners.</i>	Please identify what kind of local law would over-ride the Settlement Act.
2-9	2.2.3, 1 st paragraph	<i>...the Restoration Flow Guidelines (included in Appendix C of the WY 2010 Final EA/IS)...</i>	Appendix C of the WY 2010 Final EA/IS specifically excludes the Restoration Flow Guidelines. See page 1-2, Section 1.2, first bullet.
2-9	2.2.3, 1 st paragraph	<i>Reductions in flow could be made, in consideration of water supply demands, presence of special-status species, potential seepage and groundwater effects, along with real time management strategies...</i>	To what does the term “water supply demands” refer in this context?
2-10	Table 2-5, footnote 7	<i>Includes existing inflow from Mud and Salt sloughs of up to 500 cfs, as defined in Exhibit B.</i>	Change “defined” to “assumed”
2-17	1 st	<i>If groundwater levels at a monitoring well exceed an identified threshold, WY 2011 Interim Flows would be reduced or diverted.</i>	The meaning and use of the term “diverted” must be explained further with specifics to address potential impacts.
2-17	3 rd	<i>Three existing wells are equipped with realtime telemetered stations, reporting to CDEC.</i>	CDEC is not defined.

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2-34 to 2-35	Last paragraph of 2-34 carried over on to 2-35	<i>Without VAMP, or any future regulatory action, VAMP flow contributions from the Merced and Tuolumne Rivers will be set based on existing flow requirements, and would not be subject to change in flow conditions at Vernalis, as could have occurred if Interim Flows contributed to Vernalis flows thus allowing releases from the tributaries to be correspondingly reduced . Without the requirement that all three tributaries provide flows necessary to meet Vernalis requirements, as under VAMP, WY 2011 Interim Flow contributions to Vernalis flows would not be cause for decreased releases in the Merced and Tuolumne Rivers.</i>	This is written in a way that assumes that in a future VAMP-like agreement the Interim Flows would be treated as part of the base flows at Vernalis, which would likely be opposed by FWUA. Please re-write so that the assumption is not made.
3-1	3.1.1, second paragraph	<i>Table 3-4 in the WY 2010 Final EA/IS (page 3-13) shows the acreages of land in use by Friant Division contractors.</i>	Replace “ <i>the acreages of land in use by</i> ” with “existing land uses in the service areas of”. However, a new Table should be provided since there is a new Friant Division contractor (see below).
3-1	3.1.1, second paragraph	<i>The 28 contractors include both agricultural and municipal and industrial (M&I) contractors. Locations of the Friant Division contractors are shown in Figure 3-2 of the WY 2010 Final EA/IS (page 3-14).</i>	There are now 29 Friant Division contractors with the partial contract assignment from Ivanhoe ID to Kaweah-Delta Water Conservation District. A new figure showing this addition should be provided.
3-16	1 st	<i>Additionally, implementation of the Proposed Action is consistent with the Settlement and Act and is limited to one year.</i>	Just because the Proposed Action is consistent with the Settlement and Act and is limited to one year doesn't mean there can't be significant impacts. Suggest deleting this sentence.

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3-18	1 st	<i>Possible modifications include reducing flow releases, upstream diversions of flows to avoid downstream impacts, or constraining flows to the upper San Joaquin River (upstream of the confluence with the Merced River).</i>	Upstream diversions of flows needs further explanation with examples of what this means and the impacts that might occur.
3-18	1 st	<i>This coordination between the agencies and Reclamation's commitment to modify flows based on real time conditions would ensure that the impacts of the WY 2011 Interim Flows would be less than significant.</i>	Insert "on Fish Biological Resources" after "Interim Flows" since the coordination described is for that purpose.
3-18	2 nd	<i>Additionally, Chapter 6 of the BA for implementation of Interim Flows during WY 2011 analyzes the impacts that would result from WY 2011 Interim Flows after incorporation of conservation measures developed to minimize potential impacts to listed species.</i>	If a FONNSI is based on the BA, the public should have an opportunity to review it as part of the public review process.
3-18	3 rd	<i>Because WY 2011 Interim Flows would be confined within the existing channel, would not increase flood flow levels, would last for only a single year, and would fall within the range of and be timed to be similar to historical flows, implementation of Interim Flows in WY 2011 would not result in adverse changes in conditions affecting fish species or their habitats in the Restoration Area, and would not result in cumulative effects.</i>	If this statement is accurate, why are the procedures mentioned above this paragraph necessary?
3-21	2 nd	<i>The SJRRP was developed to reduce resource conflicts and to aid in fish and wildlife protection.</i>	This sentence is not correct. Please delete it.

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3-21	3 rd	<p><i>Because the Friant-Kern and Madera Canals Capacity Correction Project would not be completed until after the Proposed Action is implemented, and the Proposed Action would result in no net change in Millerton Lake water storage, there would be no cumulative effects between the Proposed Action and the Friant-Kern and Madera Canals Capacity Correction Project.</i></p>	<p>The statement "...the Proposed Action would result in no net change in Millerton Lake water storage..." will have to be explained in detail.</p>