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VIA FEDERAL EXPRESS AND EMAIL

Michelle Banonis
U.S. Bureau of Reclamation
San Joaquin River Restoration Program Office, MP-170
2800 Cottage Way, Room W-1727
Sacramento, CA 95825-1898
InterimFlows@restoresjr.net

Re: Comments on San Joaquin River Restoration Program, Supplemental Environmental Assessment for Water Year 2011

Dear Ms. Banonis:

Paramount Orchard Partners VI, LLC (“Paramount”) owns New Columbia Ranch on the San Joaquin River, just upstream from the Mendota Pool and downstream from the historic Whitehouse Gauging Station near the head of Lone Willow Slough, which is within the project area described in the San Joaquin River Restoration Project, Supplemental Environmental Assessment for Water Year 2011 (“Supplemental EA”). Paramount appreciates the opportunity to submit these comments on the Supplemental EA.

1. NEPA Does Not Allow Segmented Review of Projects.

As an initial matter, Paramount notes that the Supplemental EA addresses the continuation of the Bureau of Reclamation’s (“Reclamation”) San Joaquin River operations that were in place during Water Year 2010. To the extent that Reclamation intends to extend these operations each year until full restoration flows are released in 2014, the National Environmental Policy Act (“NEPA”) requires Reclamation to address the effects of these extended operations in a comprehensive environmental document and not on a segmented annual basis. 40 C.F.R. 1508.25(a).

2. The Proposed Restoration Program Would Impact Paramount’s Water Rights.

Paramount has explained to Reclamation in various communications that it has prior existing water rights at New Columbia Ranch. Reclamation must protect these rights and the San Joaquin River Restoration Program may not create additional restrictions or costs on Paramount’s ability to exercise these rights.

The discussion of water deliveries in the Supplemental EA suggests that Reclamation's proposed project would interfere with these rights. For example, the Supplemental EA indicates that Reclamation has no responsibility to make water available below Gravelly Ford and that, upon implementation of the San Joaquin River Restoration Program, only "restoration flows" would sustain the River in Reach 2. Given that New Columbia Ranch is located downstream of Gravelly Ford, this obviously disturbs Paramount.

Likewise, Reclamation's proposed treatment of flood flow releases could impact Paramount because Paramount has historically diverted flood flows for irrigation use and groundwater recharge at New Columbia Ranch. Under the proposed project, however, Reclamation would not release interim flows in addition to flood flows in periods when flood flows would satisfy all or part of the targets identified in Exhibit B of the Settlement. In essence, Reclamation would recharacterize flood flows as interim flows, which would be outside the reach of downstream water users. The ultimate effect of this recharacterization would be to reduce Paramount's available water supply.

Although the proposed project and Paramount's water rights are in apparent conflict, the Supplemental EA does not even mention the issue. Paramount reminds Reclamation that the State Water Resources Control Board conditioned Reclamation's Interim Flow regime as "subject to prior rights." Order WR 2009-058, *In the Matter of Permits 11885, 11886, and 11887 of the U.S. Bureau of Reclamation*, pp. 5, 10 (Oct. 1, 2009). Because Paramount is a prior water right holder, Reclamation may not cut off or improperly limit Paramount's access to water through the proposed project or the final implementation of the San Joaquin River Restoration Program.

3. *The Supplemental EA Does Not Address Groundwater Rights.*

The Supplemental EA discloses that the proposed project could affect groundwater levels in and around the project area, but does not address the rights to such groundwater. Paramount is an overlying landowner, and much of its property lies within the alluvial cone of the San Joaquin River (which was historically replenished by, but not directly connected to, river flows). Paramount asserts that it has the right to any increased groundwater under its property for use at New Columbia Ranch.

4. *Reclamation Must Protect Property Owners from Seepage and Project Flow Impacts.*

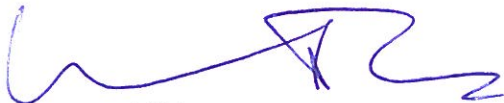
The Supplemental EA acknowledges that the proposed project could result in elevated seepage in the project area and that such seepage has the potential to impact crops, water salinity, and levee stability. Although the Supplemental EA indicates that Reclamation will monitor groundwater levels to reduce seepage impacts, it does not state how Reclamation will protect property owners or mitigate damages if these impacts do occur. Paramount asserts that Reclamation is responsible for any seepage impacts to its crops, private levees, groundwater wells, or other structures on its property that the proposed project flows may cause. In addition Interim Flows that exceed current channel capacity and result in impacts to crops, private levees, groundwater wells, or other structures must also be mitigated by Reclamation should they occur.

5. ***The Proposed Project Would Result in Agricultural Impacts at New Columbia Ranch.***

The Supplemental EA repeatedly states that the proposed project will not result in agricultural impacts, either on a project level or cumulative level. *See, e.g.*, Supplemental EA at 3-3, 3-16, 3-21. These statements completely ignore the impacts on Paramount's agricultural operations caused by the take of prime agricultural land and water resources.

Paramount appreciates the opportunity to submit these comments and would be willing to discuss options for Reclamation to pursue the San Joaquin River Restoration Program without interfering with Paramount's rights and interests.

Sincerely,



William D. Phillimore
Executive Vice President