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A GREAT RIVER

VIA: Fax and/or FedEx

July 24, 2009

The Honorable David Hayes
Deputy Secretary of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Subject: Decision Analysis for San Luis Drainage Problems

Dear Deputy Secretary Hayes:

Welcome back to California water issues! Your work on the Trinity River Record of Decision under former Secretary Bruce Babbitt still is greatly appreciated and I remain involved in Trinity River issues. However, this time I write to you supporting a continued investment of resources on the U.S. Geological Survey's (USGS) *Decision Analysis Framing Study for In-Valley Drainage Management Strategies for the Western San Joaquin Valley, California* (Decision Analysis).

Regarding the ongoing litigation on San Luis Drainage, it is our understanding that Interior has requested and has been granted 90 days by the Court to evaluate the alternatives that have been considered thus far. The only two alternatives that Interior has presented to the court are:

- Forward the already prepared draft legislation to Congress, if it is acceptable to the Secretary; or
- If the draft legislation is not acceptable to the Secretary, then the Secretary should undertake promptly implementation of the drainage solution chosen in the San Luis Feature Re-evaluation (SLDFR) Final Environmental Impact Statement (EIS) Record of Decision (ROD).

Friends of Trinity River and the undersigned organizations believe that both of these alternatives are **totally unacceptable**, and that Interior needs to accelerate the U.S. Geological Survey's *Decision Analysis Framing Study for In-Valley Drainage Management Strategies for the Western San Joaquin Valley, California*. Only by following this course of action can a cost effective, technically feasible solution be facilitated that will lessen California's water crisis, not exacerbate it. To do otherwise absolutely will hasten the day when California's water crisis becomes completely insurmountable.

To date, **well more than \$100 million has been spent** by the federal and state governments seeking solutions to the contaminated drainage problem. No feasible treatment and disposal technology for poisoned irrigation drainage has been found, developed or is at hand. According to Reclamation's own economic information, the most cost effective solution to the contaminated drainage problem is to retire as much drainage-problem land as possible.¹ The SLDFR Final EIS selected alternative in the ROD would retire 194,000 acres and have a **net negative value of \$10.149 million/year for 50 years**. The alternative most closely resembling the San Luis Contractors' proposal with land retirement of 100,000 acres has a net negative value of **\$15.603 million/year for 50 years!**

Meanwhile, the alternative with maximum land retirement of 300,000 acres had a net **positive value of \$3.643 million/year for 50 years**. The U.S. Fish and Wildlife Service had recommended that Reclamation consider retirement of an additional 79,000 acres in the northerly area, which Reclamation ignored. It only can be assumed that additional land retirement would result in additional net economic benefits, yet Reclamation refused to consider it.

USGS has stated clearly that land retirement and selective groundwater pumping are the most effective method of reducing drainage, and that the proposal by the San Luis Contractors to solve the problem is "*...unprecedented and untested at the scale needed to meet plan requirements.*"²

Reclamation's own feasibility report on the SLDFR ROD (USBR 2008) concluded that the selected alternative (In-Valley/Water Needs Land Retirement Alternative) failed the economic and financial feasibility tests and was not justified for implementation. The feasibility report indicated that implementation of the selected alternative will require substantial **additional subsidies** for the San Luis Contractors, requiring Congressional approval and an increase in authorization of \$2.7 billion.³

Reclamation's draft legislation for settlement of San Luis Drainage litigation is **completely unacceptable** as well. In exchange for accepting the responsibility for drainage service (based upon completely unproved technology), it would provide the San Luis Contractors with a 9d water contract for more than a million acre-feet of water **in perpetuity**. Not only does this proposed legislation violate the 25 year contract limitation in the Central Valley Project Improvement Act (CVPIA), it would put California's most junior water users in the position of possessing a senior water contract/right. This would create additional substantial water conflicts, not reduce them.

The draft legislation also specifically omitted Section 3406(b)(2) of the (CVPIA) from the list of applicable mandatory federal requirements. This omission would have the effect of limiting use

¹ See Table N-10 from the San Luis Drainage Feature Re-Evaluation Final EIS, Appendix N, page 17. The Preferred Alternative would cost

² See Presser, T.S. and S.E. Schwarzbach. 2008. Technical Analysis of In-Valley Drainage Management Strategies for the Western San Joaquin Valley. U.S. Geological Survey Open-File Report 2008-1210, USGS, Reston, VA. Available at: <http://pubs.usgs.gov/of/2008/1210/>

³ The San Luis Drainage Feature Re-evaluation Report Feasibility Report, Bureau of Reclamation, March 2008 recommended implementation of the In-Valley/Water Needs Land Retirement Alternative with a substantial increase in subsidies as follows (pages xxvi- xxvii):

of (b)(2) water in the Delta to less than the CVPIA requires to protect fish and wildlife. It also could result in water supply impacts to third parties if Interior must change Delta operations and must use other sources of water. Given the current collapse of the Delta ecosystem and the recent low numbers of Central Valley salmonids, there is absolutely no rational or legal basis for constraining use of (b)(2) primary purpose water.

It's also clear that the Contractors' proposal to solve their drainage problem is doomed to fail, and it simply is a ruse to obtain a permanent water contract which will enable it to sell its subsidized water to the highest urban bidder at enormous profits when their proposal predictably fails. Water purchased by the Contractors at, say even \$50 an acre foot can be sold for \$650 an acre foot. By 2020, will this be \$2,000 an acre foot, and \$4,000 an acre foot by 2040? Implementation of this legislative proposal would be a giveaway of taxpayer dollars and a public resource of unprecedented proportions.

The sprinkler technology, reverse osmosis and other gimmicks proposed by the Contractors have never been used on the scale proposed, and have experienced major problems at a smaller scale. According to USGS, the pile of waste salt created from retiring only 100,000 acres (similar to Contractors' proposal) would amount to a 50 foot high pile on 311 acres created every 50 years, in perpetuity.

Despite all the evidence that the two options now facing Interior are not cost effective, technically feasible, protective of the environment nor reliable, Reclamation has continued down a path of certain failure and economic ruin in favor of political expediency supporting Westlands.

For the SLDFR EIS and ROD process, Reclamation ignored comments supporting evaluation of additional land retirement and had to obtain a National Economic Development Act waiver for the selected alternative. For the proposed settlement legislative process, the comments of all environmental groups were rejected wholesale with a verbal statement from Reclamation that the scope of its comments was beyond the task assigned by Senator Feinstein, yet no definition of that task ever was provided to those commenting.

Subsequent to issuance of the SLDFR EIS and ROD, Central Valley salmon runs have collapsed, and there is the Pelagic Organism Decline as well. It's clear that water exports from the Delta are not sustainable and need to be reduced. Interior now has the opportunity to reduce the amount of water for San Luis Contractors because their long-term contracts have expired and they are operating under short-term contracts.

FOTR believes that massive land retirement of drainage impaired lands in the western San Joaquin Valley will free up enough water to make it unnecessary to build a peripheral canal or any new dams.⁴ By retiring (through contract non-renewal) as much as 1.3 million acres in the Central Valley Project and State Water Project service areas in western Kern and Tulare counties, the *Pacific Institute* and other independent experts believe that we can save as much as 3.9 million acre feet of water a year. And at the same time, by not putting water on the drainage impaired lands, the leaching of toxics and the accumulation of salts would be stopped or greatly

⁴ http://www.pacinst.org/reports/more_with_less_delta/more_with_less.pdf

reduced. This would solve multiple water quality problems as well, and a likely mid-century Superfund Site comprised of these lands might be avoided.

Therefore, it is vital that your office strongly support USGS' Decision Analysis process. Only USGS has the expertise, the knowledge and the **independence** to perform this analysis. It is clear that Reclamation has not acted in the best interests of the Treasury or the public for resolution of San Luis Drainage problems by giving all options full consideration. Decisions have been made based on politics, not science, nor technology nor economics.

Given the significant uncertainties associated with a drainage solution, it is in the public's best interest for USGS to be fully funded to complete the Decision Analysis process on San Luis Drainage prior to funding for and implementation of any drainage solution for the San Luis Unit.

Regardless of the position of Friends of Trinity River or any other organization, the Decision Analysis process is your best bet to get to the best answer for the public interest you serve. I strongly urge you to support and **to accelerate** the Decision Analysis process.

Sincerely,

Byron Leydecker, Chair

Northern California Council Federation of Fly Fishers
s/Mark Rockwell, Conservation Director

Save Our Streams Council
s/Lloyd Carter, President

Butte Environmental Council
s/Lynn Barris, Water Policy Analyst

California Sportfishing Protection Alliance
s/Bill Jennings, Chairman and Executive Director

Cc: Mr. Ken Salazar, Interior Secretary
Senator Barbara Boxer
Representative Nancy Pelosi
Representative George Miller
Mr. Don Glaser, Bureau of Reclamation
Ms. Suzette Kimball, Acting Director, United States Geological Survey
Ms. Laura Youshii, Regional Administrator, Environmental Protection Agency Region 9