



American Fisheries Society

ORGANIZED 1870 | INCORPORATED 1910

CALIFORNIA-NEVADA CHAPTER

TO : Cay Goude, President Western Division AFS
FROM : President California-Nevada Chapter

SUBJECT: Continued Western Division Support for the Natural Resources Defense Council, Inc. (NRDC) on the Friant Unit Water Contract Lawsuit

In 1988 the California-Nevada Chapter at their annual meeting in Napa, California, provided a small, but significant donation of \$500.00 to the NRDC in support of the Council's efforts to resolve a nationally significant National Environmental Policy Act issue with the United States Department of the Interior. During that same year Western Division at their annual meeting in Seattle also voted to support NRDC by donating \$500.00 and carried the issue before National Society at the annual meeting in Alaska. At that meeting the National executive committee voted to support NRDC not only with a \$1000.00 donation but also wrote a strong letter to the Secretary of the Interior indicating the Society's deep concern over the Friant contract renewals and lack of environmental review.

It is very clear the issue presents a nationally significant test of the application of the National Environmental Policy Act regarding disclosure of environmental impacts that may result from renewal of long-term federal contracts (in this case water contracts in California) throughout the United States. A summary of the issue and its national implications are presented in the attached brief.

As of this writing the issue continues to drag on as a consequence of legal maneuvers of the Department of the Interior. Nonetheless, NRDC is committed to get the issue resolved and their actions over the last year have resulted in some very significant events in Congress, at the State level and within many of the Executive agencies including the Bureau of Reclamation. However the lengthy effort has meant increased costs to NRDC.

As a consequence the California-Nevada Chapter has again donated \$500.00 to NRDC to support the Council's continued efforts and requests that Western Division also renew their

financial support and provide any technical assistance in the way of letters, data, expert testimony or other pertinent information that may assist NRDC in their efforts. We further request that Western Division carry this request forward and ask for renewed efforts on the part of the National Society to champion this issue in the Washington D.C. arena.

John R. ...

FRIANT CONTRACT RENEWALS IN CALIFORNIA
AN ISSUE SUMMARY
by the California-Nevada Chapter

Over the next several years, hundreds of federal irrigation contracts administered by the Bureau of Reclamation in the various western states will come up for renewal. These contracts provide for delivery of millions of acre-feet of water with massive environmental and economic consequences. These contracts also provide enormous federal taxpayer subsidies.

The Friant case is nationally significant because it is a major part the U.S. Bureau of Reclamation's Central Valley Project (CVP), one of the largest water resource development projects in the world with annual Federal subsidies amounting to billions of dollars. The Friant Unit of the CVP consists of 28 California irrigation and water districts and municipalities which hold water service contracts with the Bureau of Reclamation. Under these contracts the Bureau of Reclamation delivers approximately 1.5 million acre-feet of water each year from storage facilities on the San Joaquin River at Millerton Reservoir. Water deliveries from the Friant Unit were executed as 40 year contracts beginning with the first, the Orange Cove Irrigation District, in the late 1940's. Most of the water is used on agricultural lands and a substantial percentage supports surplus crops and large corporations, many of which are held by foreign investors.

The Orange Cove Irrigation District in California's San Joaquin Valley, was the first of the 28 Friant Unit contracts to come up for renewal. It was signed and renewed for another 40 year term by Secretary of Interior Manuel Lujan in 1989 and, although there were several changes in the conditions of the contract, there was no evaluation pursuant to the National Environmental Policy Act or Endangered Species Act. The Secretary's action triggered a lawsuit by Natural Resources Defense Council and 14 other environmental and fishing organizations under the National Environmental Policy Act and Endangered Species Act.

Despite strong opposition from the Environmental Protection Agency, National Marine Fisheries Service, Attorney General of California and a contrary opinion from the President's Council on the Environment (CEQ), the Department of the Interior has taken the position that it must automatically renew the contracts for another 40 years, without an environmental impact evaluation pursuant to the National Environmental Policy Act. However it is not clear what the Department (via the Bureau of Reclamation), intends to do under the Federal Endangered Species Act to evaluate the indirect and cumulative effects of renewing water contracts

without formal consultation pursuant to the Endangered Species Act. The San Joaquin Valley is highly significant as an area that has more federally listed and candidate species than any other in the continental United States.

The Interior Department's position has been severely criticized by a wide range of political leaders in California and in Washington, newspaper articles and editorials throughout the country, wildlife and fisheries groups, as well as the National Marine Fisheries Service and the Environmental Protection Agency. The Pacific Fisheries Management Council, which includes the California Department of Fish and Game and other key resource agencies involved with Pacific coast fisheries have also criticized the Department of Interior position and Orange Cove water contract renewal action. Most of the water districts from the Friant Unit of the CVP have intervened in the lawsuit on behalf of the Department of the Interior. In addition, water interests elsewhere throughout the west, convinced of the far-reaching and national significance of the issue, have evidently joined in support of the Department of Interior's position pledging funding and other support to the Friant intervenors.

The Friant districts have sided with the Interior Department and Bureau of Reclamation and are engaging in extensive discovery and numerous pre-trial motions presumably in an attempt to exhaust the financial resources of NRDC and their co-litigants, all of which are non-profit environmental and fishing organizations. To date the court has accommodated the intervenors by pushing back the hearing date many times and requiring NRDC et al. to disclose all their evidence months in advance. This certainly will provide the districts and the Interior Department ample time to complete a thorough discovery and prepare for the court proceedings now expected to occur sometime during the summer of 1990.

Resource significance

If the contracts are renewed under the status quo, many aquatic species of the San Joaquin River, Sacramento-San Joaquin estuary, San Francisco Bay and a large segment of the Central Valleys terrestrial fauna (including many federally and state listed species) will continue to be adversely affected. Undoubtedly the biotic integrity and productivity of these large regional ecosystems will continue to decline. In addition, if the multitude of impending water development projects are to be implemented as planned and water deliveries in the Friant Unit continue under the status quo, the already dismal and declining conditions in the San Joaquin River and Valley, as well as the Sacramento-San Joaquin estuary and San Francisco Bay are likely to dramatically accelerate.

Many Department of Interior and other studies have shown that the environmental effects of the Friant Unit of the CVP have been devastating to fish and wildlife resources in the San Joaquin Valley, the San Joaquin river system, the Sacramento-San Joaquin estuary and San Francisco Bay. Large runs of spring and fall run chinook salmon (Oncorhynchus tshawytschaw) were blocked from their spawning areas on the San Joaquin River when Friant went in and these populations have been extirpated from the upper portions of the river. The southern most stocks of spring run chinook salmon, numbering up to 60,000 spawners was completely eliminated. Many native and sport fishes and other aquatic species have been significantly reduced in range and numbers. And as long as water management in this region of California continues under the status quo, this important segment of California's biota will continue to experience significant adverse effects with the impending result that many more species are likely to be added to the endangered and threatened list. Several species of resident estuary fishes as well as several anadromous species appear to be reduced to conditions warranting federal listing.

Recent concessions by the Department of Interior as a result of the legal challenge by the Natural Resources Defense Council, Inc. has resulted in the Department considering a "Programmatic" environmental review under NEPA and possible initiative for restoration of the San Joaquin River. However, the NEPA review would be done without consideration of revising contract water volumes and the the initiative has never been clearly defined. Moreover, the Secretary would continue to sign and renew the expiring contracts for another 40 years.

Clearly, enforcement of the NEPA environmental review requirements and the assessment and consultation provisions of the ESA will undoubtedly affect renewals and may change the beneficiaries of the water and other farm subsidies from the status quo. NRDC, their co-plaintiffs, and many other environmental and professional resource organizations and groups have even agreed that interim water service need not be interrupted during the review period since interim one to three year contracts could be established. Despite these reasonable concessions the Interior Department has refused to withhold renewal of the long-term contracts and conduct the NEPA and ESA evaluations.

We believe that by supporting NRDC and continuing efforts to educate the public and decisionmakers at all levels but especially at the Washington level, the American Fisheries Society will be taking a professionally, ecologically and legally justifiable position that will ensure the public an opportunity to view and correct some of the massive environmental consequences Federal water policies and actions have had on California's Central Valley ecosystem

over the past 40 years. We must recognize however, that success here may not necessarily result in significant changes to the ultimate long-term water allocations for the Friant Unit. At worst success may simply assure that the public and all public interest agencies of the state and Federal governments will have the opportunity to examine the various water allocation, pricing, and mitigation alternatives available to the Federal government to rectify the long-term environmental consequences of renewing water contracts for the Friant Unit for another 40 years. Even at this it will establish a clear precedent to assure that, nationwide, all other similar Federal contract renewals and policies regarding water development must be subject to careful environmental review under NEPA and the ESA. On the more optimistic side success in this endeavor may indeed begin the long overdue process of restoring adequate flow conditions in the San Joaquin River, the Sacramento-San Joaquin estuary and San Francisco Bay and improve conditions for a highly significant ecological region with a multitude of endangered species.



AMERICAN FISHERIES SOCIETY

ORGANIZED 1870

IDAHO CHAPTER



PROPOSED RESOLUTION FOR CONSIDERATION BY THE
WESTERN DIVISION OF THE AMERICAN FISHERIES SOCIETY
CONCERNING ENDORSEMENT OF IDAHO AND OREGON CHAPTERS EFFORTS
TO PROTECT WILD STOCKS OF LOWER COLUMBIA RIVER COHO SALMON AND
SNAKE RIVER CHINOOK SALMON PURSUANT TO THE ENDANGERED SPECIES ACT

WHEREAS, native populations of lower Columbia River coho salmon and Snake River chinook salmon have declined dramatically from historic levels;

WHEREAS, efforts to protect these populations and their associated habitat have not prevented further declines in their numbers;

WHEREAS, available data suggest that further reductions in population size, genetic viability, and the distribution and quality of critical habitat will threaten the continued existence of these stocks;

WHEREAS, the Idaho and Oregon chapters of the American Fisheries Society have formally petitioned the Secretary of Commerce (National Marine Fisheries Service) to consider listing these stocks as threatened or endangered species under the Endangered Species Act;

NOW THEREFORE BE IT RESOLVED that the Western Division of the American Fisheries Society supports the Idaho and Oregon chapters in their efforts to seek protection and recovery of native populations of lower Columbia River coho salmon and Snake River chinook salmon.