



October 2, 2010

Michael Jackson  
Area Manager South-Central California Area Office  
US Bureau of Reclamation  
1243 N. Street  
Fresno CA 93727.

**RE: Follow Up to Mr. Tom Birmingham's Question For Citation Regarding the 2003 Hazardous Selenium Concentrations Avian Impacts at the Westlands Water District 9(d) September 28, 2010 Technical Meeting and Negotiation Session--Technical Meeting and Continuation of Negotiations of a New Repayment Contract for San Luis Drainage Collection Facilities.**

Dear Mr. Jackson:

After the technical meeting and negotiations of September 28, 2010, Mr Birmingham requested additional information and a citation for the U.S. Fish and Wildlife information given during the public comment period regarding the 2003 shallow groundwater at a site near Five Points measured by the Central Valley Regional Water Quality Control Board to be 1480 ppb Selenium. Attached are copies of some of the photographs presented at the symposium.

[http://wwwrcamnl.wr.usgs.gov/Selenium/Library\\_articles/joepond.pdf](http://wwwrcamnl.wr.usgs.gov/Selenium/Library_articles/joepond.pdf)

In addition, from the meeting discussion we understand the Bureau and Westlands Water District plan to issue a categorical exemption for the changes contemplated by this new Repayment Contract for San Luis Drainage Collection Facilities. As Mr. Birmingham noted since the SLDFR-ROD there have been significant changes in the project. These include the definition of the project, geographical boundaries, acres to be served and volumes of drainage water.

As noted during the public comment period these changes and shifts in the project scope and definition demand a new environmental analysis. Specifically, here is an outline of some of these changes:

1. All NEPA documents, ESA and CESA (California Endangered Species Act) consultations assumed zero discharge to the San Joaquin River and Mud Slough. This is not consistent with this project or the 2007 ROD.
2. All NEPA documents, ESA and CESA consultations assumed bio-treatment technology could reduce the selenium concentration of effluent discharged into evaporation ponds down to a not to exceed 10 ppb predominately as selenate. The present project under the ROD proposes a monthly average instead

of the not to exceed standard. Further pretreatment pilot testing of the system showed this assumption was speculative. The selenium levels for the pilot testing project ranged from 50 to 200 µ/L [see SLDFR FEIS]. Mitigation land, fresh water supplies and pond hazard mitigations will all need to be increased to meet the standard set by Judge Wanger in the OCAP litigation. He stated that mitigation measures need to be “certain to occur, capable of implementation, subject to deadlines or otherwise enforceable obligations and they must address the threats to the species in a way that satisfies the jeopardy and adverse modification standards.”

3. The definition of land retirement in the SLDFR FEIS differs from the definition in the Final USFWS Coordination Act Report (CAR) and the consultation assumptions. The SLDFR suggests the lands can be irrigated with groundwater. The CAR indicates the retired lands will not be irrigated with any source of water. Discussions during the contract negotiations and technical committee discussed how much the geography has changed. Again, what lands are receiving drainage and the ability to enforce, monitor and mitigate impacts assumed to be achieved through already retired lands is inconsistently treated in the NEPA and consultation documents.

These are just a few of the inconsistencies and significant changes resulting in the need to conduct a new environmental review of whatever project is selected as a result of these contract negotiations.

Regards,



Jim Metropulos  
Senior Advocate  
Sierra Club California



Carolee Krieger  
Board President and Executive Director  
California Water Impact Network



Conner Everts  
Executive Director  
Southern California Watershed Alliance



Byron Leydecker  
Chair  
Friends of Trinity River

## CVRWQCB Measured 1480 ppb Selenium in 2003 in Ponded Shallow Groundwater



Drainage Solutions: Homage to the Ponds of Folly, Joseph Skorupa, U.S. Fish and Wildlife Service. 2003 U.C. Salinity/Drainage Annual Conference March 26, 2003.

In the spring of 2002 USFWS sampled eggs from shorebirds nesting near a small depression of standing water next to a cotton gin site at the corner of S. Colusa Ave and W. Mt Whitney Ave. (The nearest town is Five Points). The water could be traced back to a pipe that appeared to be discharging shallow groundwater.

The eggs contained very high levels of Se and numerous deformed embryos were documented from those eggs.

The Central Valley Regional Water Board took a water sample from the same site in the Spring of 2003 and a Se concentration of **1,480 ppb** was measured (that of course exceeds the state's hazardous waste threshold of 1,000 ppb for Se, and far exceeds the 2 ppb standard that the U.S. Fish and Wildlife Service considers protective for breeding water birds).