



News Release

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Agreement Signals Start to Historic San Joaquin River Restoration

Settlement Ends Years of Litigation; Sets Stage for Salmon Reintroduction, Water Supply Certainty

SACRAMENTO, California, September 13, 2006

An historic agreement to restore water flows for salmon in the San Joaquin River below Friant Dam near Fresno while undertaking one of the West's largest river restoration efforts was announced today by the Natural Resources Defense Council (NRDC), Friant Water Users Authority (FWUA) and U.S. Departments of the Interior and Commerce.

The settlement, filed this morning in U.S. District Court in Sacramento, ends an 18-year legal dispute over the operation of Friant Dam and resolves longstanding legal claims brought by a coalition of conservation and fishing groups led by NRDC. It provides for substantial river channel improvements and sufficient water flow to sustain a salmon fishery upstream from the confluence of the Merced River tributary while providing water supply certainty to Friant Division water contractors.

Historically, Central California's San Joaquin River supported large salmon populations, including the southernmost Chinook salmon population in North America. Since Friant Dam became fully operational in the late 1940s, approximately 60 miles of the river have been dried up in most years, eliminating salmon above the river's confluence with the Merced River.

The Settlement Agreement is based on two goals and objectives:

1. A restored river with continuous flows to the Sacramento-San Joaquin River Delta and naturally reproducing populations of Chinook salmon.
2. A water management program to minimize water supply impacts to San Joaquin River water users.

The Settling Parties will work together on a series of projects to improve the river channel in order to restore and maintain healthy salmon populations. Flow restoration is to be coordinated with these channel improvements, with spring and fall run Chinook salmon populations reintroduced in approximately six years. At the same time, the Settlement limits water supply impacts to Friant Division long-term water contractors by providing for new water management measures that are to be undertaken by the U.S. Bureau of Reclamation, the Interior Department agency that administers the Central Valley Project. The Settling Parties believe that commitments under the agreement and the cooperative approach toward restoration provide an historic opportunity to restore the San Joaquin River in a manner broadly acceptable to water contractors who have been operating under a cloud of uncertainty regarding their water supply due to pending litigation for the past 18 years.

The agreement provides that long-term Friant Division water service contracts be amended to conform the contracts to the terms of the settlement. It also includes draft federal legislation authorizing the Departments of the Interior and Commerce to implement the settlement. NRDC and FWUA will ask Congress to consider and act upon the draft legislation in the days ahead.

“This is the beginning of a historic restoration that will reintroduce salmon to the San Joaquin River as well as address water supply issues and provide certainty for thousands of Central Valley farmers and residents,” said Ronald D. Jacobsma, Consulting General Manager of the Friant Water Users Authority. “We’re eager to get started putting the pieces in place to take this from a plan to reality.”

“Today, environmental and fishing groups are joining with Friant farmers and federal agencies to bring a beleaguered river back to life,” said Hal Candee, senior attorney for NRDC. “Restoring flows and salmon to the San Joaquin River will provide broad benefits to the environment and to millions of Californians. We expect history will record this as one of the greatest environmental comeback stories ever.”

“This monumental agreement provides certainty to San Joaquin Valley farmers who rely on Central Valley Project water deliveries for their crops while returning flows and salmon runs back to the San Joaquin River. The Department of the Interior stands ready to meet its commitments in this historical agreement and let a truly collaborative process begin towards a restored river for all,” said Mark Limbaugh, assistant secretary for water and science, Department of the Interior.

Restoration Goal

At the heart of the settlement is a commitment to provide continuous flows in the San Joaquin River to sustain naturally reproducing Chinook salmon and other fish populations in the 153-mile stretch of the river between Friant Dam and the Merced River. Accomplishing this goal will require funding and constructing extensive channel and structural improvements in many areas of the river, including some that have been without flows (except for occasional flood releases) for decades.

Water Management Goal

Recognizing that the settlement's restoration flows will reduce the amount of water available for diversion at Friant Dam, The settlement also includes provisions to protect water availability for the 15,000 small farms that currently rely on these supplies. One million acres of the most productive farmland in the country as well as many towns and cities along the southern San Joaquin Valley's East Side receive all or a major portion of their water supplies from Friant Dam. The settlement recognizes the importance of this water to those farms and calls for development of water management solutions to provide these users water supply certainty for the long term. Such a program would include a flexible combination of recirculation, recapture, reuse, exchange and/or transfer programs. Additional storage such as groundwater banking will also be explored.

Phased Approach

Restoring continuous flows to the approximately 60 miles of dry river will take place in a phased manner. Planning, design work, and environmental reviews will begin immediately, and interim flows for experimental purposes will start in 2009. The flows will be increased gradually over the next several years, with salmon being re-introduced by December 31, 2012. The settlement continues in effect until 2026, with the U.S. District Court retaining jurisdiction to resolve disputes and enforce the settlement. After 2026, the court, in conjunction with the California State Water Resources Control Board, would consider any requests by the parties for changes to the restoration program.

Federal Court Approval and Authorizing Legislation

The parties are filing a joint motion seeking U.S. District Court approval of the settlement. Concurrently, the parties are seeking congressional approval of legislation authorizing the Secretaries of Interior and Commerce to implement the settlement. A draft of this authorizing legislation was negotiated by the parties and incorporated into the settlement.

Restoration Funding

The settling parties have carefully studied San Joaquin River restoration for many years, and as part of the settlement have identified the actions and highest priority projects necessary to achieve the restoration goal. These include expanding channel capacity, improving levees, and making modifications necessary to provide fish passage through or around certain structures in the river channel. The settlement identifies a number of funding sources to support implementation of these projects, including current environmental contributions from farmers and cities served by Friant Dam, state bond initiatives and authorization for federal contributions.

More specifically, the settlement dedicates the “Friant Surcharge”, a Central Valley Project Improvement Act (CVPIA) environmental fee of \$7 per acre foot of water delivered to Friant Contractors that is expected to average about \$8 million per year, and up to \$2 million of other Restoration Fund Payments annually made by water users under the CVPIA for use by the program.

It also dedicates the capital component of water rates paid by Friant Division water users to the program for nine years and permits settlement monies to be used for the Water Management and Restoration goals. Ongoing Friant program contributions are committed and capped at current Restoration Fund and Surcharge Payment levels. Enactment of the authorizing legislation in conjunction with the settlement could make an additional \$250 million in federal contributions available. The settlement provides for bonding, guaranteed loans or other financing using annual payments for debt service. It anticipates fiscal participation by the State of California, as well.

The settlement negotiations were convened a year ago by U.S. Senator Dianne Feinstein and House Water and Power Subcommittee Chairman George Radanovich, who urged the parties to put aside their differences and develop a framework to restore the river in a manner that would provide water supply certainty to the Friant farmers who depend on San Joaquin River water.

Senator Dianne Feinstein stated: “I am hopeful that today’s settlement will help ensure that the San Joaquin will once again become a living river and the hard-working men and women in the Friant service area who grow much of our nation’s fruits and vegetables will continue to have a stable water supply. I believe the parties involved in these negotiations came up with a workable solution. Water is one of the most precious of California’s resources and the only way we can continue to prosper as a State is to work for solutions that improve our water supply, restore our environment and our water quality, and protect us from floods.”

"Today is a momentous step given the contentious 18-year history of the lawsuit. I commend the parties for all of their hard work and for the commitment of Senator Feinstein to help drive this process," said Congressman George Radanovich. "I look forward to conducting an oversight hearing with my colleagues in the House on the settlement and draft legislation. The hearing will give Members, the parties to the settlement and third-parties an opportunity to provide input as we lay the foundation for movement of a bill."

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The Natural Resources Defense Council is a national, nonprofit organization of scientists, lawyers and environmental specialists dedicated to protecting public health and the environment. Founded in 1970, NRDC has 1.2 million members and online activists nationwide, served from offices in New York, Washington, Los Angeles and San Francisco.

Reclamation is the largest wholesale water supplier and the second largest producer of hydroelectric power in the United States, with operations and facilities in the 17 Western States. Its facilities also provide substantial flood control, recreation, and fish and wildlife benefits. Visit our website at <http://www.usbr.gov>.

The Friant Water Users Authority serves 22 southern San Joaquin Valley member water agencies that are supplied with water from the Central Valley Project's Millerton Lake behind Friant Dam near Fresno through the Friant-Kern and Madera canals. Visit our website at www.fwua.org.

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The Settling Parties will work together on a series of projects to improve the river channel in order to restore and maintain healthy salmon populations. Flow restoration is to be coordinated with these channel improvements, with spring and fall run Chinook salmon populations reintroduced in approximately six years. At the same time, the Settlement limits water supply impacts to Friant Division long-term water contractors by providing for new water management measures that are to be undertaken by the U.S. Bureau of Reclamation, the Interior Department agency that administers the Central Valley Project. The Settling Parties believe that commitments under the agreement and the cooperative approach toward restoration provide an historic opportunity to restore the San Joaquin River in a manner broadly acceptable to water contractors who have been operating under a cloud of uncertainty regarding their water supply due to pending litigation for the past 18 years.

The agreement provides that long-term Friant Division water service contracts be amended to conform the contracts to the terms of the settlement. It also includes draft federal legislation authorizing the Departments of the Interior and

Commerce to implement the settlement. NRDC and FWUA will ask Congress to consider and act upon the draft legislation in the days ahead.

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participation by the State of California, as well.

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The Parties

Agencies and organizations that are parties to the settlement in the San Joaquin River litigation known as *Natural Resources Defense Council, et. al. v. Rodgers, et. al.* are listed below:

PLAINTIFFS

Natural Resources Defense Council, The Bay Institute of San Francisco, Trout Unlimited of California, California Sportfishing Protection Alliance, California Trout, Friends of the River, Nor-Cal Fishing Guides and Sportsmen's Association, Pacific Coast Federation of Fishermen's Associations, San Joaquin Raptor Rescue Center, Sierra Club, Stanislaus Audubon Society Inc., United Anglers of California, California Striped Bass Association, and National Audubon Society.

FEDERAL DEFENDANTS

U.S. Bureau of Reclamation, U.S. Department of the Interior, U.S. Department of Commerce, National Marine Fisheries Service and U.S. Fish and Wildlife Service. (*Rodgers* in the litigation's formal title refers to the current Mid-Pacific Regional Director of the U.S. Bureau of Reclamation, Kirk Rodgers.)

FRIANT PARTIES

Arvin-Edison Water Storage District, Chowchilla Water District, Delano-Earlimart Irrigation District, Exeter Irrigation District, Friant Water Users Authority, Ivanhoe Irrigation District, Lindmore Irrigation District, Lindsay-Strathmore Irrigation District, Lower Tule River Irrigation District, Madera Irrigation District, Orange Cove Irrigation District, Porterville Irrigation District, Saucelito Irrigation District, Shafter-Wasco Irrigation District, Southern San Joaquin Municipal Utility District, Stone Corral Irrigation District, Teapot Dome Water District, Terra Bella Irrigation District and Tulare Irrigation District.

OTHER FRIANT DIVISION LONG-TERM CONTRACTORS

In addition to the Friant agencies named above, the parties below have water service contracts with the U.S. Bureau of Reclamation for Friant Division water supplies but are not parties to the litigation. The Settlement will apply to these agencies:

City of Fresno, City of Orange Cove, City of Lindsay, County of Madera, Fresno County Waterworks District No. 18, Fresno Irrigation District, Garfield Water District, Gravelly Ford Water District, International Water District and Lewis Creek Water District.



Who are the parties to the Settlement?

The agencies and organizations that are party to the San Joaquin River litigation Settlement are principally the plaintiffs' coalition led by the Natural Resources Defense Council (NRDC), the U.S. Bureau of Reclamation and Friant Water Users Authority. (A complete list of plaintiffs and defendants may be found in the separate joint briefing document "The Parties".)

What are the broad objectives of the Settlement?

The Settlement includes two objectives. The first is a commitment to restore flows and salmon to the San Joaquin River between Friant Dam and the Merced River confluence. The settlement also recognizes that water is the lifeblood for both salmon and the people of the San Joaquin Valley – it is a resource that must be shared. Thus, the settlement also provides opportunities for Friant Division long-term water contractors to mitigate water supply impacts resulting from water releases called for under the Settlement.

How much water must be released to restore salmon?

The settlement requires specific releases of water from Friant Dam to the confluence of the Merced River, designed primarily to meet the various life stage needs for spring and fall run Chinook salmon. The release schedule assumes continuation of the current average Friant Dam release of 116,741 acre feet, with additional flow requirements depending on the year type. For example, approximately 247,000 acre feet would be released in most dry years, whereas about 555,000 acre feet would be released in wet years.

How will this impact Friant water supplies?

Friant completed an extensive modeling of the water delivery impacts that would come from the Settlement and concluded that in the absence of mitigation measures, implementation of the Settlement would be expected to reduce Friant Division long-term water contractor deliveries, on average, by about 170,000 acre feet each year (15 % of the 1,150,000 acre feet of average deliveries to Friant Division long-term contractors). Through creative water management strategies, Friant will work to minimize the impact of these delivery reductions. An important element of the settlement, however, is that tools will be developed and implemented to reduce or avoid these water supply impacts by utilizing surplus water primarily to enhance groundwater programs, and also developing programs to return water to Friant water users through recapture, recirculation, transfers and exchanges.

How quickly will flows and salmon be returned to the river?

Interim flows will begin in the fall of 2009 and full restoration flows would begin no later than January 2014. Salmon will be reintroduced no later than December 31, 2012 in the upper reaches.

What other restoration measures does the Settlement require?

There are many physical improvements within and near the San Joaquin River that will be undertaken to fully achieve the river restoration goal. The improvements will occur in two separate phases that will focus on a combination of water releases from Friant Dam, as well as structural and channel improvements.

How does the San Joaquin River restoration project compare to other river restoration projects?

This historic effort to restore the San Joaquin River is one of the most significant and ambitious river restoration projects in the West. It covers 153 miles of the San Joaquin River from Friant Dam to the mouth of the Merced River, and involves not only restoring flows to approximately 60 miles of dry river bed, but also significant channel and fish passage improvements. The settling parties are unaware of any other river restoration project involving changes of this magnitude.

What role will the State of California play in implementing the Settlement?

The State of California has expressed strong support for this Settlement and has pledged cooperation and the financial resources of the State to help it succeed. Through the Department of Water Resources, Department of Fish & Game, the Resources Agency, and CalEPA, the state has entered into a Memorandum of Understanding ("MOU") with the Settling Parties that outlines an important, collaborative role for the state in the planning, design, funding, and implementation of the actions called for by the Settlement.

Who benefits from a restored San Joaquin River?

Beyond the direct environmental benefits of achieving the restoration goal, and the benefit of planning certainty for the 15,000 family farms that rely on Friant water for some or all of their water needs, other significant public benefits are expected to result from the settlement, including downstream water quality benefits and increased recreational opportunities. In its MOU with the settling parties, the State of California acknowledged the public benefits of restoring the San Joaquin River, emphasizing that restoration will provide broad benefits to the environment, to the federal, State and local governments, and to millions of Californians.

How much will implementing the restoration goal under the Settlement cost?

The Settling Parties have carefully studied San Joaquin River restoration for many years and, as part of this settlement, have identified the actions and highest priority projects necessary to achieve restoration as provided in the settlement. Preliminary cost estimates to complete these actions and projects were developed ranging from \$250 million to \$800 million. The largest variables in this range are the assumptions as to the specific type and extent of levee work that may be required in connection with some of the projects. The high-end estimate of \$800 million assumes that concrete slurry walls, a very costly type of levee stabilization, would be required throughout the areas where physical improvements are undertaken, whereas the low-end estimate of \$250 million assumes that less costly levee requirements would apply. The California Department of Water Resources, which has responsibilities related to levees and flood protection, has reviewed the settlement and provided its own preliminary cost estimate in the range of approximately \$350 million to \$570 million. More precise cost estimates will be completed in the course of project-specific planning activities, which will happen as part of Settlement implementation.

Where will the money come from to support the settlement?

Funding for the restoration and water management objectives will be drawn from a combination of federal appropriations, state bond initiatives and current environmental contributions from farmers and cities served by Friant Dam. The draft legislation incorporated into the settlement provides authorization for up to \$250 million in federal appropriations. In addition, the settlement dedicates the “Friant Surcharge”, a Central Valley Project Improvement Act (CVPIA) environmental fee of \$7 per acre foot of water charged to Friant Contractors (because of a lack of water releases to the river) under the CVPIA for use by the program. It also permits Settlement monies to be used for the Water Management and Restoration goals. Friant Contractors’ contributions are limited to Restoration Fund and Surcharge payments. California’s Prop. 84 on the November 7th ballot includes \$100 million to implement the settlement. The parties also believe several of the projects called for in the settlement could qualify for funding under one or more of the infrastructure bonds on the November ballot. The Settlement provides for bonding, guaranteed loans or other financing using annual payments for debt service. It anticipates State of California financial participation. Taken together, it is expected these funding sources and financing strategies will provide sufficient funding to fully implement the settlement.

What was the basis of the lawsuit when it was filed in 1988?

The NRDC Coalition originally challenged the U.S. Department of the Interior’s proposal to renew Friant Division 40-year water service contracts without an Environmental Impact Statement. NRDC’s complaint was subsequently amended to include other claims, including a claim under the Endangered Species Act, and a claim alleging that the operation of Friant Dam violates California Fish & Game Code Section 5937, which requires dams to release sufficient water to keep fish in good condition below the dam. It was the latter claim that became the focus of the litigation in recent years. All of these claims are resolved by the current settlement.

Why did you decide to settle?

The Settling Parties believe that commitments under the agreement and the cooperative approach toward restoration provide an historic opportunity to restore the San Joaquin River in a manner broadly acceptable to water contractors who have been operating under a cloud of uncertainty regarding their water supply due to pending litigation for the past 18 years. Working together to face this environmental and water management challenge is the best way to ensure that restoration proceeds expeditiously and with broad public support.

How have other stakeholders been involved?

The settling parties have dedicated substantial time and effort to reaching out to the many stakeholders who have an interest in the future of the San Joaquin River. Through months of negotiations and consultations with third parties, the settling parties have worked to ensure that the benefits of restoration can be realized without harming third parties, and where appropriate the settlement has been modified to incorporate the perspectives and interests of others. The settling parties do not believe or intend that restoration will have material adverse impacts on any third parties. The settling parties are committed to ongoing outreach and engagement with other stakeholders in implementing the settlement.

What else needs to happen for the settlement to be successfully implemented?

The parties must secure court approval for the settlement to take effect, and are filing a joint motion seeking U.S. District Court approval. In addition, because the settlement will be implemented primarily by the United States Departments of Interior and Commerce, federal legislation is being proposed to authorize these agencies to implement the settlement. A draft of this authorizing legislation was negotiated by the parties and incorporated into the settlement.