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San Joaquin River Restoration Settlement Act

Congress: 110 (2007–2009, Ended)

Chamber: Senate

Policy Area: Water Resources Development

Introduced: Jan 4, 2007

Current Status: Placed on Senate Legislative Calendar under General Orders. Calendar No. 838.

Latest Action: Placed on Senate Legislative Calendar under General Orders. Calendar No. 838. (Jun 25, 2008)

Official Text: <https://www.congress.gov/bill/110th-congress/senate-bill/27>

Sponsor

Name: Sen. Feinstein, Dianne [D-CA]

Party: Democratic • **State:** CA • **Chamber:** Senate

Cosponsors (1 total)

Cosponsor	Party / State	Role	Date Joined
Sen. Boxer, Barbara [D-CA]	D · CA		Jan 4, 2007

Committee Activity

Committee	Chamber	Activity	Date
Energy and Natural Resources Committee	Senate	Hearings By (subcommittee)	May 3, 2007

Subjects & Policy Tags

Policy Area:

Water Resources Development

Related Bills

Bill	Relationship	Last Action
110 HR 4074	Related bill	May 13, 2008: Placed on the Union Calendar, Calendar No. 395.
110 HR 24	Text similarities	Mar 1, 2007: Subcommittee Hearings Held.

Title I: San Joaquin River Restoration Settlement Act - San Joaquin River Restoration Settlement Act - (Sec. 104)

Directs the Secretary of the Interior (the Secretary) to implement the Stipulation of Settlement dated September 13, 2006, in *Natural Resources Defense Council, et al. v. Kirk Rodgers, et al.*, in cooperation with the state of California, including measures to: (1) design and construct channel and structural improvements; (2) modify Friant Dam operations to provide Restoration Flows and Interim Flows; (3) acquire water, water rights, or options to acquire water from willing sellers; (4) implement terms and conditions related to recirculation, recapture, reuse, exchange, or transfer of water released for such flows; and (5) develop and implement the Recovered Water Account.

Directs the Secretary to: (1) enter into agreements with California to facilitate or expedite Settlement implementation; and (2) identify impacts associated with actions and measures to mitigate impacts on adjacent and downstream water users and landowners. Provides that Settlement implementation and the reintroduction of Chinook salmon shall not result in the involuntary reduction in contract water allocations to Central Valley Project long-term contractors apart from Friant Division contractors.

(Sec. 105) Authorizes the Secretary to: (1) acquire from willing sellers property needed to implement the Settlement; and (2) dispose of property no longer needed.

Requires: (1) the Secretary, upon determining that property acquired through eminent domain authority is no longer necessary for implementation of the Settlement, to provide a right of first refusal to the former owner on the same terms and conditions being offered to other parties; and (2) proceeds from the disposal of such property to be deposited into the San Joaquin River Restoration Fund (established by this title).

(Sec. 106) Directs the Secretary and the Secretary of Commerce to comply with applicable law, including the National Environmental Policy Act of 1969 and the Endangered Species Act of 1973 (ESA), and complete applicable environmental reviews and consultations as necessary to effectuate the purposes of the Settlement. Declares that nothing in this Act preempts state law or modifies any existing U.S. obligation under federal reclamation law to operate the Central Valley Project in conformity with state law.

Authorizes the Secretary to provide necessary funds for affected federal, state, and local agencies and Indian tribes to effectively participate in the environmental review process if used to support only activities that directly contribute to the implementation of the Settlement's terms and conditions.

Makes the United States' share of the costs of implementing this title nonreimbursable under federal reclamation law, subject to a limitation.

(Sec. 107) Declares that: the Settlement satisfies and discharges the Secretary's obligations under the Reclamation Projects Authorization and Adjustment Act of 1992, subject to specified assessment and collection requirements.

(Sec. 109) Requires: (1) the costs of implementing the Settlement to be covered by payments or in-kind contributions made by Friant Division contractors and other non-federal parties, with specified costs shared by the state of California; (2) the Secretary to enter into agreements with California to fund or implement improvements on a project-by-project basis; and (3) that costs incurred solely to implement this Settlement that would not otherwise have been incurred shall not be borne by any entity, public or local agency, or subdivision of a state except on a voluntary basis.

Authorizes appropriations. Authorizes the Secretary to use not to exceed \$2 million (October 2006 price levels) from the

the Central Valley Project Restoration Fund for purposes of this title in any fiscal year.

Establishes in the Treasury the San Joaquin River Restoration Fund.

Requires the Secretary to: (1) study the costs of undertaking work required to increase the capacity of Reach 4B of the San Joaquin River prior to reinitiation of Restoration Flows, the impacts associated with reinitiation, and measures to mitigate impacts (which shall be completed prior to restoration of any flows other than Interim Flows); and (2) report to Congress within 90 days after issuing a determination required by the Settlement on whether to expand channel conveyance capacity to 4500 cubic feet per second in Reach 4B or use an alternative route for pulse flows.

Provides that if the Secretary's estimated federal cost for expanding Reach 4B would exceed the remaining federal funding authorized by this title, Congress must increase the applicable authorization ceiling to cover the higher estimated costs before the Secretary commences actual construction work to expand capacity to 4500 cubic feet per second to implement this Settlement.

(Sec. 110) Directs the Secretary, prior to December 31, 2010, to convert certain listed existing Friant Division, Hidden Unit, and Buchanan Unit long-term irrigation water service contracts to repayment contracts. Authorizes the Secretary to convert other existing long-term water service contracts for irrigation and municipal water deliveries by that date. Requires all such contracts to require the repayment of the remaining amount of construction costs allocated to each contractor by January 31, 2011 (or by January 31, 2014, if payment is made in approximately equal annual installments). Provides for payment of additional construction or other capitalized costs properly assignable to the contractor. Provides that the repayment contracts will continue as long as the contractors pay applicable charges.

Requires payments to be adjusted as set forth following a final allocation of the costs of Central Valley Project construction.

Specifies the applicability of existing provisions of Reclamation law. Directs the Secretary: (1) to waive pricing provisions of the Reclamation Projects Authorization and Adjustment Act of 1992 for a contractor upon such contractor's repayment of construction costs, provided that the contractor continues to pay applicable operation and maintenance costs and other charges; and (2) beginning in 2020, to reduce a charge mandated under that Act as provided in the Settlement for a specified period. Provides that: (1) if certain conditions are met, upon the first release of Interim Flows or Restoration Flows pursuant to the Settlement, any agreement to which a long-term Friant contractor that converts its contracts is a party and which provides for the transfer or exchange of water not released as Interim Flows or Restoration Flows shall be deemed to comply with provisions of such Act; and (2) any such water transferred or exchanged shall not be counted as a replacement or offset under the Settlement (with an exception).

Provides that nothing in this title shall: (1) be construed to alter the repayment obligation of, or shift any other costs to, other long-term water contractors receiving water from the Central Valley Project; or (2) affect the right of any Friant Division long-term contractor to use a particular type of financing to make certain required payments.

(Sec. 111) Provides for the reintroduction of Chinook salmon into the San Joaquin River if the Secretary of Commerce finds that a reintroduction permit may be issued under ESA. Directs that Secretary to: (1) issue a final rule under ESA governing the incidental take of reintroduced salmon and providing that the reintroduction will not impose more than de minimus water supply reductions, additional storage releases, or bypass flows on unwilling third parties; and (2) report to Congress by December 31, 2024, on progress made and on the Secretary's plans.

Directs the Secretary to exercise authority under the Federal Power Act by reserving the right to file prescriptions in

proceedings for projects licensed by the Federal Energy Regulatory Commission (FERC) on the Calaveras, Stanislaus, Tuolumne, Merced, and San Joaquin rivers.

Title II: Study to Develop Water Plan; Report - (Sec. 201) Directs the Secretary, acting through the Bureau of Reclamation, to provide direct financial assistance to the California Water Institute to study the coordination and integration of sub-regional integrated regional water management plans into a unified Integrated Regional Water Management Plan for specified counties in the San Joaquin River Hydrologic Region and Tulare Lake Hydrologic Region that would: (1) address issues related to water quality, supply, conveyance, reliability, conservation and efficient use, flood control, water resource-related environmental enhancement, and population growth; and (2) serve as a guide for the counties to address and solve long-term water needs in a sustainable and equitable manner.

Title III: Friant Division Improvements - (Sec. 301) Directs the Secretary to conduct feasibility studies on: (1) restoration of the capacity of the Friant-Kern and Madera Canals to the capacity previously designed and constructed by the Bureau of Reclamation; and (2) reverseflow pump-back facilities on the Friant-Kern Canal, with specified reverse-flow capacity at the Poso and Shafter Check Structures and at the Woollomes Check Structure. Authorizes the Secretary, upon completion of such studies, to construct those improvements and facilities.

(Sec. 302) Authorizes the Secretary to provide financial assistance to local agencies within the Central Valley Project for the planning, design, environmental compliance, and construction of local facilities to bank and recover water underground or to recharge groundwater, provided the project meets specified criteria. Makes a project eligible for federal financial assistance only if all or a portion of the project is designed to reduce, avoid, or offset the quantity of the expected water supply impacts to Friant Division long-term contractors caused by the Interim or Restoration Flows authorized in title I and such quantities have not already been reduced, avoided, or offset by other projects. Limits the federal financial assistance provided to local agencies to 50% of the costs associated with planning, design, and environmental compliance activities associated with such a project and 50% of construction costs. Provides that title to, control over, and operation, maintenance, and replacement and rehabilitation costs of funded projects shall remain with local agencies.

(Sec. 303) Authorizes appropriations, subject to specified restrictions.

Actions Timeline

- **Jun 25, 2008:** Committee on Energy and Natural Resources. Reported by Senator Bingaman with an amendment in the nature of a substitute. With written report No. 110-400.
- **Jun 25, 2008:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 838.
- **May 7, 2008:** Committee on Energy and Natural Resources. Ordered to be reported with an amendment in the nature of a substitute favorably.
- **May 3, 2007:** Committee on Energy and Natural Resources Subcommittee on Water and Power. Hearings held. With printed Hearing: S.Hrg. 110-93.
- **Jan 4, 2007:** Introduced in Senate
- **Jan 4, 2007:** Sponsor introductory remarks on measure. (CR S66-67)
- **Jan 4, 2007:** Read twice and referred to the Committee on Energy and Natural Resources. (text of measure as introduced: CR S67-69)