

An aerial photograph showing a winding river channel through a vast, green agricultural landscape. The river is bordered by a strip of trees and vegetation, and the surrounding fields are divided into a grid pattern by roads or irrigation canals. The sky is a clear, light blue.

San Joaquin River Restoration Program Restoration Administrator 2008 Annual Report

Prepared by

**Ane D. Deister – 2008 Restoration Administrator
Roderick J. Meade – 2009 Restoration Administrator**

Prepared for

Settling Parties

**SJRRP Program Manager as the Representative of
the Secretary of the Interior**

Implementing Agencies

Resources Legacy Fund

February 2009

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February 24, 2009

San Joaquin River Restoration Project
Settling Parties and Implementing Agencies
(Distribution List Attached)

Subject: Restoration Administrator 2008 Annual Report

Dear SJRRP Settling Parties and Implementing Agencies:

In accordance with the requirements of the Settlement Agreement, Exhibit D, Paragraph 10, the second Restoration Administrator Annual Report for the SJRRP is enclosed for your review. This Annual Report was prepared jointly by Ane D. Deister (2008 RA) and Roderick J. Meade (2009 RA) to provide a written report concerning progress made on the SJRRP during 2008.

Please feel free to contact Rod Meade, the 2009 Restoration Administrator if you have questions or would like additional information.

Sincerely,

Ane D. Deister (2008 RA)
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Roderick J. Meade (2009 RA)
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Enclosure

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San Joaquin River Restoration Program Restoration Administrator 2008 Annual Report

1.0 OVERVIEW

In 1988, a coalition of environmental groups, led by the Natural Resources Defense Council (NRDC), filed a lawsuit challenging the renewal of the long-term water service contracts between the United States and the Central Valley Project (CVP) Friant Division contractors. After more than 18 years of litigation of this lawsuit, known as *NRDC, et al., v. Kirk Rodgers, et al.*, a Stipulation of Settlement (Settlement) was reached. On September 13, 2006, the Settling Parties reached agreement on the terms and conditions of the Settlement, which was subsequently approved by the Court on October 23, 2006. The “Settling Parties” include the NRDC, Friant Water Users Authority (FWUA), and the U.S. Departments of the Interior and Commerce.

As a means to implement the terms of the Settlement, the San Joaquin River Restoration Program (SJRRP) was established principally by the Bureau of Reclamation on behalf of the Secretary of the Interior. Now in its third year of implementation, the SJRRP is largely staffed by three federal agencies, the Bureau of Reclamation (BOR), the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) as well as two state agencies, the Department of Water Resources (DWR) and Department of Fish and Game (DFG) – collectively the “Implementing Agencies”. The SJRRP is a landmark effort, and is one of the largest river restoration projects of its kind in the country. The restoration area for the SJRRP extends 153 miles downstream from the Friant Dam to the confluence of the San Joaquin and Merced rivers.

The Settlement establishes two primary goals: a “Restoration Goal” and a “Water Management Goal.” These goals are described below:

- Restoration Goal – The Settlement intent is to restore and maintain fish populations in “good condition” in the main stem of the San Joaquin River below Friant Dam to the confluence of the Merced River, including naturally reproducing and self-sustaining populations of salmon and other fish.
- Water Management Goal – Similarly, the Settlement intent is to reduce or avoid adverse water supply impacts to all of the Friant Division long-term contractors that may result from the Interim Flows and Restoration Flows provided for in the Settlement.

To assist in achieving these goals, the Settlement provides for appointing an independent Restoration Administrator (RA) and establishing a Technical Advisory Committee (TAC). The roles and specific responsibilities for each are specified in the Settlement. One responsibility of the RA is the preparation of an Annual Report that is to be submitted to the Settling Parties and filed with the Court.

2.0 BACKGROUND AND INTRODUCTION

This Annual Report covering SJRRP efforts during 2008 was jointly prepared by outgoing RA Ane D. Deister and incoming RA Roderick J. Meade. The content of this Report conforms to the provisions of paragraph 10 of Exhibit D in the Settlement.

The primary purpose of the Annual Report is to discuss and assess the progress of implementing the Settlement and is required to address, but is not limited to, the following topics:

- Settlement implementation activities during 2008;
- TAC findings, research and data collection;
- Recommended measures to achieve the restoration goal;
- Progress and impediments in meeting targets established per paragraph 11 of Exhibit D of the Settlement;
- RA and TAC expenditures; and
- RA and TAC goals, objectives and targets for 2009.

In addition, the Annual Report identifies relevant events or actions that may involve others, including Congressional actions.

3.0 SUMMARY OF SJRRP ACCOMPLISHMENTS AND IMPEDIMENTS TO PROGRESS

3.1 SUMMARY OF 2008 ACTIVITIES AND PROGRESS

San Joaquin River Restoration Program Accomplishments

SJRRP accomplishments during 2008 included:

- Progress on formulating operational guidelines for Restoration Flow releases;
- Progress toward completing a more accurate and efficient “continuous line” hydrograph to replace the “stair-step” hydrograph contained in Attachment B of the Settlement;
- Preparation of a framework for the Recovered Water Account;
- Progress in developing a water re-circulation plan serving Friant Division long-term contractors;
- Progress on a variety of planning, coordinating and monitoring activities;
- Progress in preparing a Fisheries Management Plan that will include an adaptive management approach;
- Completion of ten (10) Technical Memoranda and provision for public access and review;
- Providing for public access to the Program –
 - via the web to Program activities,
 - quarterly Program Update mailings to a broad distribution list,
 - public meetings, and
 - local forum briefings; and
- Cooperating with the Water Education Foundation (WEF) to conduct a tour of the San Joaquin River from Friant Dam to the confluence of the River with the Merced River.

Restoration Administrator and Technical Advisory Committee

During 2008, the RA convened a total of nineteen (19) TAC meetings, and three (3) field trips to enable the TAC to view as a group Reaches 1 through 5 of the San Joaquin River, the state’s Merced River restoration project and the USFWS restoration projects on Butte Creek.

RA and TAC work products completed during 2008 included the following:

- RA Annual Report;
- TAC 2008 Annual Work Plan;
- TAC report providing Recommendations on Restoring Fall-run Chinook Salmon to the Upper San Joaquin River;

- RA transmittal of Fall-run Chinook salmon recommendations to the SJRRP Program Manager (PM) as the representative of the Secretary of the Interior;
- An integrated planning matrix identifying and organizing TAC information and data needs that was developed collaboratively by the RA, TAC and implementing agencies;
- RA/TAC and Implementing Agencies, working collaboratively, developed protocols and processes for reviewing draft reports and Technical Memoranda, selecting sample locations and sharing the information with other responsible entities; and
- TAC draft recommendations on implementing Interim Flows during 2009.

Changes in Appointments and Personnel

At the end of January 2008 Roderick J. Meade resigned as the Interim Acting Restoration Administrator. Mr. Meade was replaced by Ane D. Deister, who continued as the RA through 2008. However, Mr. Meade returned in January 2009 to serve as the RA and is expected to continue in this role for the foreseeable future.

TAC membership changed during 2008. Dale Mitchell of the DFG retired and he was replaced by Dean Marston as the DFG Representative. The sixth and final position on the TAC, anticipated eventually to be filled by an individual with experience in streambed dynamics and restoration issues, remained unfilled.

The Program Management Team (PMT) as established by the Implementing Agencies also changed during 2008. PMT personnel changes during 2008 included the addition of David M. Mooney, PhD and PE, as the Hydraulic Engineer. In addition, Dean Marston joined the PMT as the DFG lead representative to replace Dale Mitchell. Kevin Faulkenberry now serves on the PMT as the DWR lead representative, replacing Paula Landis. National Marine Fisheries Service (NMFS) does not have a designated PMT representative.

TAC and RA Budget and Contracts

The RA and TAC are supported by a Proposition 13 Grant as provided by the DWR and DFG to the Resources Legacy Fund (RLF). The RLF administers funding for RA and TAC using these funds and contracts with the RA and TAC members. TAC members under contract include Moyle, McBain, Hanson, Schmitt (representing NRDC) and Luce (representing FWUA). These contracts were successfully extended from July 1, 2008 to June 30, 2009. The RA contract for Ane D. Deister covered the period of January to June 2008. This contract also was extended through mid-February 2009.

In January 2009 the previous interim RA, Roderick J. Meade, returned as the RA with overlap occurring between the two RA's during January and mid February 2009. The 2009 RA contract extends through June 2009 and is intended to be extended subject to DWR/DFG approval of the Grant extension that would enable RLF to disburse monies that already have been paid into the RLF RA/TAC account.

As of the close of 2008, available funding was adequate to support RA/TAC operations through the remainder of the current budget year (June 2009). Funding adequate to support work beyond June 2009 is available but will require approval of a time-only Grant extension by DWR and DFG beyond June 30, 2009, to enable RLF to disburse those monies. RLF is preparing a time-only Grant extension request to use available funds on behalf of the RA and TAC.

Coordination and Communication

Successful implementation of the SJRRP requires high levels of cooperation and coordination. During 2008 the RA worked with the TAC and separately with PMT and others to improve communication and coordination among the participants. RA and TAC efforts included:

- The RA and TAC prepared a master calendar which integrated the specific TAC and RA duties and responsibilities identified by the Settlement.
- The RA, with the support of the TAC, prepared a work schedule that enabled the RA and TAC to formulate a work plan that accounted for the need to review public documents produced by the SJRRP.
- The TAC developed an information and data matrix that is needed by the TAC in order to identify information gaps and plan for conducting future technical analyses and other evaluations in an orderly and effective manner.
- The PM and RA maintained regular communications with the San Joaquin River Resource Management Coalition (RMC). Attendance at the RMC monthly meetings, electronic and telephone communications furthered coordination with these important groups.

Technical Activities, Reports and Summaries

As noted above, the RA submitted recommendations based on the TAC's report containing TAC recommendations for "Restoring Fall-run Chinook Salmon to the Upper San Joaquin River" to the Secretary of the Interior's representative in February of 2008.

In addition, the following activities occurred:

- TAC members and the RA established formal and informal processes for providing comments, suggestions and recommendations to the PM concerning Technical Memoranda and other PMT documents and efforts;
- The RA and TAC toured some sections of the 150 mile project area to view and discuss projects required by the Settlement;
- The RA and TAC visited two river restoration projects in California to discuss lessons learned with the Implementing Agencies. These projects included the Merced River restoration project (Robinson Tract); and the Butte Creek restoration project;

- The RA and some TAC members participated in public Fish Management Workgroup meetings and workshops to discuss issues and provide comments related to the Fish Management Plan;
- The RA and some TAC members participated in the October 2008 CALFED Science Symposium in Sacramento;
- The TAC completed draft recommendations relating to the future release of Interim Flows and related monitoring and data collection actions.

3.2 SUMMARY OF IMPEDIMENTS TO PROGRESS

While the SJRRP continues to move forward in timely manner, several issues are coming into focus that could constitute impediments to the success of the SJRRP if not addressed early in 2009.

Federal Legislation

The SJRRP has the necessary funding and authority to conduct studies and prepare the Program Environmental Impact Statement and Environmental Impact Report. Congressional action on pending legislation (S.22 – the Omnibus Bill) is necessary to authorize and fund full implementation of SJRRP projects. While the lack of federal legislation has not resulted in financial impediments to date, it could in the future. In addition, the lack of federal legislation more than two years after signing the Settlement, inadvertently contributes to a perception in some quarters that this Settlement will not be fully implemented.

State Budget

The state budget crisis has slowed some implementation efforts and could become a more serious issue in the future. The Implementing Agencies are discussing ways to address potential short-term funding shortfalls and keep SJRRP implementation measures on schedule.

Access to Private Properties

SJRRP efforts to secure landowner agreements to permit access to their lands for field investigations necessary for preparation of environmental documents and planning for Interim Flows (geotechnical, biological, and so forth) continue but are considerably behind schedule. Continuing delays could affect the ability of the PM and PMT to maintain the current SJRRP schedule.

Full Participation by Implementing Agencies

The Settlement requires Implementing Agencies to designate a liaison to the TAC. The 2007 RA Annual Report noted that the NMFS did not maintain a designated TAC liaison and this situation continued during most of 2008 due to delays in needed inter-agency agreements that limited NOAA staff participation in the process.

3.3 2008 RESTORATION ADMINISTRATOR AND TECHNICAL ADVISORY COMMITTEE EXPENDITURES

Expenditures related to RA and TAC activities during 2008 are itemized in Appendix A (2008 RA and TAC Expenditures). These expenditures totaled more than \$392,171 and included \$203,177 for RA activities and \$188,845 for TAC activities. All of the RA and TAC expenditures were related to TAC member participation and related expenses. The RA did not expend funds for outside technical assistance.

Currently the TAC/RA expenditures are well within existing budget allocations and funds are available to cover RA and TAC activities through the current budget year that ends June 30, 2009.

3.4 2009 RA AND TAC GOALS AND OBJECTIVES

The PMT has identified three (3) “stages” in the implementation of the Settlement. Stage 1 of the SJRRP began in earnest in 2007 and has focused on program-level “pre-flow” planning and information gathering. Stage 1 will end with the planned October 1 release of Interim Flows in 2009. This event will signal the commencement of Stage 2 of the SJRRP, with the release of Interim Flows, related monitoring and analyses of these flows, and re-introduction of spring-run and fall-run Chinook salmon. Stage 2 will continue until the Restoration Flows begin (no later than January 1, 2014) and the Interim Flow Study Report has been completed by the PMT (June 2014). Stage 3 involves the full implementation of Restoration Flows and SJRRP construction projects.

Based on the tasks completed during 2008, the provisions of the Settlement and the imminent commencement of Interim Flows in October, the following tasks will need to be addressed by the RA and TAC, in consultation with the PMT and others, during 2009:

- Finalize the TAC Interim Flow Recommendations for submittal to the RA (this has been completed);
- Preparation of the RA Interim Flow Recommendations and submittal to the PM as the representative of the Secretary of the Interior;
- Formulation of a 2-year TAC Work Plan to provide a tool for identifying and evaluating progress toward completion of TAC and RA tasks during 2009 and 2010;
- Commencement of Interim Flows consistent with Paragraph 15 of the Settlement by October 1, 2009;
- The final member of the TAC that is provided for under the Settlement Agreement should be hired to provide expertise to support restoration activities;
- Monitoring progress on PMT efforts to obtain necessary environmental and regulatory approvals and, as requested by the PM, assist PMT in obtaining necessary environmental and regulatory approvals, including support with agencies such as the NMFS, Army Corps of Engineers, Regional Water Quality Control Board and State Water Resources Control Board;

- As requested, support the PMT in securing state and federal funds for SJRRP implementation;
- Secure continued funding for the TAC/RA; and
- Continue RA and TA review of PMT Technical Memoranda ongoing discussions with the Work Groups.

While each of the above goals and targets is important, the need to move forward on planning for Interim Flows in 2009 is especially significant. The TAC is required to develop recommendations for the RA regarding the Interim Flow Program, which is to begin in October 1, 2009. These recommendations are expected to be available to the RA and Settling Parties in February 2009. The RA recommendations on Interim Flows will address key information needs and other considerations. There is a considerable nexus between the monitoring program and information gathering that will occur as part of the Interim Flow Program, and the effective implementation of adaptive management and maintenance of operational flexibility that might be needed while implementing the Fish Management Plan and Restoration Flows.

During 2008 the TAC members initiated discussion of the potential for providing recommendations and input on the restoration program through a strategic alignment perspective that would integrate the physical, biological and construction modifications specified in the Settlement. For example, their discussion focused on the benefits of developing comprehensive Interim Flow Program recommendations that would provide information that directly relates to proposed modifications of Reach 2B and 4B. The TAC pointed out that taking this strategic approach at the Programmatic EIS/EIS level of investigation would ideally result in valuable information to be considered by the PMT's Alternatives Formulation discussions and reports. These discussions have begun and the program continues to evolve as more information is learned, shared and becomes available.

4.0 CLOSING REMARKS

RA and TAC efforts for 2009 will continue to intensify, particularly with respect to developing protocols for seamless information exchange to inform real time Interim Flow decisions on the water releases from Friant Dam. The data identified by the TAC in 2008, the review of draft TM's and progress on formulation of a continuous-line hydrograph are all back drop to the next important and challenging components of the Program.

The SJRRP has made commendable progress in implementing the Settlement. The Program has maintained steady progress over the past year despite continued delays in Congressional approval of federal legislation necessary for implementation of the Settlement and severe California budget conditions. However, any potential "cushion" in the Program schedule developed by the PMT to conform to the terms of the Settlement probably has been consumed by the combination of problems relating to the above conditions.

There is reason to be confident that federal legislation already approved by the Senate (S.22) will be passed by Congress to authorize the full implementation of the SJRRP. It is also reasonable to believe that both the state and federal administrations are committed to fully fund the SJRRP. However, if there are additional significant delays in state and federal funding of the SJRRP during 2009 such delays will impact the ability of the SJRRP to meet the schedule milestones set forth in the Settlement.

There is probably no single near-term element of the Program more important to maintaining SJRRP progress and achieving SJRRP target milestones and restoration objectives than commencing Interim Flows on the October 1 target date. An example of the 2009 challenges facing the SJRRP focuses on the need to obtain Temporary Entry Permits (TEPs) in a timely manner to enable PMT investigations related to the Interim Flows to be conducted on the private lands located adjacent to the Upper San Joaquin River. Without executed TEPs with private landowners, data collection and analyses would be limited to a narrower, more limited corridor along the River. To fully address the range of concerns relating to potential seepage impacts associated with the SJRRP, particularly evaluations of potential seepage impacts on private lands and seepage management alternatives, technical investigations (*e.g.*, geotechnical, biologic and other surveys) will be required on private lands located adjacent to the River.

APPENDIX A

2008 RA AND TAC EXPENDITURES

Restoration Administrator Account

Ane Deister - Brown and Caldwell	
Salary	\$ 196,175.00
Expenses	1,509.03
SUBTOTAL	\$ 197,684.03
Rod Meade - R.J. Meade Consulting	
Salary (November -December 2008)	\$ 4,800.00
Expenses	693.00
SUBTOTAL	\$ 5,493.00
2008 RA Account Total	\$ 203,177.03

Technical Advisory Committee Account

Friant Water Users Authority	
Salary	\$ 37,937.50
Expenses	1,601.73
SUBTOTAL	\$ 39,539.23
Hanson Environmental, Inc.	
Salary	\$ 29,875.00
Expenses	1,229.58
SUBTOTAL	\$ 31,104.58
McBain & Trush, Inc.	
Salary	\$ 57,204.50
Expenses	11,026.94
SUBTOTAL	\$ 68,231.44
Peter Moyle	
Salary	\$ 13,250.00
Expenses	380.83
SUBTOTAL	\$ 13,630.83
Natural Resources Defense Council	
Salary	\$ 34,760.00
Expenses	1,579.26
SUBTOTAL	\$ 36,339.26
2008 TAC Account Total	\$ 188,845.34

Total RA and TAC Accounts

2008 RA Account Total	\$ 203,177.03
2008 TAC Account Total	188,845.34
2008 Project Total RA & TAC	\$ 392,022.37