

Questions and Answers



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.

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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.

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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.

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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.