

110TH CONGRESS
1ST SESSION

H. R. 4074

To authorize the implementation of the San Joaquin River Restoration Settlement, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 5, 2007

Mr. COSTA (for himself, Mr. RADANOVICH, Mr. CARDOZA, and Mrs. NAPOLITANO) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To authorize the implementation of the San Joaquin River Restoration Settlement, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **TITLE I—THE SAN JOAQUIN**
4 **RIVER RESTORATION SET-**
5 **TLEMENT ACT**

6 **SECTION 101. SHORT TITLE.**

7 This Act may be cited as the “San Joaquin River
8 Restoration Settlement Act”.

1 **SEC. 102. PURPOSE.**

2 The purpose of this Act is to authorize implementa-
3 tion of the Settlement.

4 **SEC. 103. DEFINITIONS.**

5 In this Act—

6 (1) the terms “Friant Division long-term con-
7 tractors”, “Interim Flows”, “Restoration Flows”,
8 “Recovered Water Account”, “Restoration Goal”,
9 and “Water Management Goal” have the meanings
10 given those terms in the Settlement;

11 (2) the term “Secretary” means the Secretary
12 of the Interior; and

13 (3) the term “Settlement” means the Stipula-
14 tion of Settlement dated September 13, 2006, in the
15 litigation titled “Natural Resources Defense Council,
16 et al. v. Kirk Rodgers, et al., United States District
17 Court, Eastern District of California, No. CIV. S-
18 88-1658-LKK/GGH”.

19 **SEC. 104. IMPLEMENTATION OF SETTLEMENT.**

20 (a) IN GENERAL.—The Secretary of the Interior is
21 hereby authorized and directed to implement the terms
22 and conditions of the Settlement in cooperation with the
23 State of California, including the following measures as
24 these measures are prescribed in the Settlement:

25 (1) Design and construct channel and struc-
26 tural improvements as described in paragraph 11 of

1 the Settlement, provided, however, that the Sec-
2 retary shall not make or fund any such improve-
3 ments to facilities or property of the State of Cali-
4 fornia without the approval of the State of Cali-
5 fornia and the State's agreement in 1 or more
6 Memoranda of Understanding to participate where
7 appropriate.

8 (2) Modify Friant Dam operations so as to pro-
9 vide Restoration Flows and Interim Flows.

10 (3) Acquire water, water rights, or options to
11 acquire water as described in paragraph 13 of the
12 Settlement, provided, however, such acquisitions
13 shall only be made from willing sellers and not
14 through eminent domain.

15 (4) Implement the terms and conditions of
16 paragraph 16 of the Settlement related to recircula-
17 tion, recapture, reuse, exchange, or transfer of water
18 released for Restoration Flows or Interim Flows, for
19 the purpose of accomplishing the Water Manage-
20 ment Goal of the Settlement, subject to—

21 (A) applicable provisions of California
22 water law;

23 (B) the Secretary's use of Central Valley
24 Project facilities to make Project water (other
25 than water released from Friant Dam pursuant

1 to the Settlement) and water acquired through
2 transfers available to existing south-of-Delta
3 Central Valley Project contractors; and

4 (C) the Secretary's performance of the
5 Agreement of November 24, 1986, between the
6 United States of America and the Department
7 of Water Resources of the State of California
8 for the coordinated operation of the Central
9 Valley Project and the State Water Project as
10 authorized by Congress in section 2(d) of the
11 Act of August 26, 1937 (50 Stat. 850, 100
12 Stat. 3051), including any agreement to resolve
13 conflicts arising from said Agreement.

14 (5) Develop and implement the Recovered
15 Water Account as specified in paragraph 16(b) of
16 the Settlement, including the pricing and payment
17 crediting provisions described in paragraph 16(b)(3)
18 of the Settlement, provided that all other provisions
19 of Federal reclamation law shall remain applicable.

20 (b) AGREEMENTS.—

21 (1) AGREEMENTS WITH THE STATE.—In order
22 to facilitate or expedite implementation of the Settle-
23 ment, the Secretary is authorized and directed to
24 enter into appropriate agreements, including cost
25 sharing agreements, with the State of California.

1 (2) OTHER AGREEMENTS.—The Secretary is
2 authorized to enter into contracts, memoranda of
3 understanding, financial assistance agreements, cost
4 sharing agreements, and other appropriate agree-
5 ments with State, tribal, and local governmental
6 agencies, and with private parties, including agree-
7 ments related to construction, improvement, and op-
8 eration and maintenance of facilities, subject to any
9 terms and conditions that the Secretary deems nec-
10 essary to achieve the purposes of the Settlement.

11 (c) ACCEPTANCE AND EXPENDITURE OF NON-FED-
12 ERAL FUNDS.—The Secretary is authorized to accept and
13 expend non-Federal funds in order to facilitate implemen-
14 tation of the Settlement.

15 (d) MITIGATION OF IMPACTS.—Prior to the imple-
16 mentation of decisions or agreements to construct, im-
17 prove, operate, or maintain facilities that the Secretary de-
18 termines are needed to implement the Settlement, the Sec-
19 retary shall identify—

20 (1) the impacts associated with such actions;
21 and

22 (2) the measures which shall be implemented to
23 mitigate impacts on adjacent and downstream water
24 users and landowners.

1 (e) DESIGN AND ENGINEERING STUDIES.—The Sec-
2 retary is authorized to conduct any design or engineering
3 studies that are necessary to implement the Settlement.

4 (f) EFFECT ON CONTRACT WATER ALLOCATIONS.—
5 Except as otherwise provided in this section, the imple-
6 mentation of the Settlement and the reintroduction of
7 California Central Valley Spring Run Chinook salmon
8 pursuant to the Settlement and section 110, shall not re-
9 sult in the involuntary reduction in contract water alloca-
10 tions to Central Valley Project long-term contractors,
11 other than Friant Division long-term contractors.

12 (g) EFFECT ON EXISTING WATER CONTRACTS.—Ex-
13 cept as provided in the Settlement and this Act, nothing
14 in this Act shall modify or amend the rights and obliga-
15 tions of the parties to any existing water service, repay-
16 ment, purchase or exchange contract.

17 **SEC. 105. ACQUISITION AND DISPOSAL OF PROPERTY;**
18 **TITLE TO FACILITIES.**

19 (a) TITLE TO FACILITIES.—Unless acquired pursu-
20 ant to subsection (b), title to any facility or facilities,
21 stream channel, levees, or other real property modified or
22 improved in the course of implementing the Settlement au-
23 thorized by this Act, and title to any modifications or im-
24 provements of such facility or facilities, stream channel,
25 levees, or other real property—

1 (1) shall remain in the owner of the property;
2 and

3 (2) shall not be transferred to the United
4 States on account of such modifications or improve-
5 ments.

6 (b) ACQUISITION OF PROPERTY.—

7 (1) IN GENERAL.—The Secretary is authorized
8 to acquire through purchase from willing sellers any
9 property, interests in property, or options to acquire
10 real property needed to implement the Settlement
11 authorized by this Act.

12 (2) APPLICABLE LAW.—The Secretary is au-
13 thorized, but not required, to exercise all of the au-
14 thorities provided in section 102 of the Act of Au-
15 gust 26, 1937 (50 Stat. 844, chapter 832), to carry
16 out the measures authorized in this section and sec-
17 tion 104.

18 (c) DISPOSAL OF PROPERTY.—

19 (1) IN GENERAL.—Upon the Secretary's deter-
20 mination that retention of title to property or inter-
21 ests in property acquired pursuant to this Act is no
22 longer needed to be held by the United States for
23 the furtherance of the Settlement, the Secretary is
24 authorized to dispose of such property or interest in
25 property on such terms and conditions as the Sec-

1 retary deems appropriate and in the best interest of
2 the United States, including possible transfer of
3 such property to the State of California.

4 (2) RIGHT OF FIRST REFUSAL.—In the event
5 the Secretary determines that property acquired pur-
6 suant to this Act through the exercise of its eminent
7 domain authority is no longer necessary for imple-
8 mentation of the Settlement, the Secretary shall pro-
9 vide a right of first refusal to the property owner
10 from whom the property was initially acquired, or
11 his or her successor in interest, on the same terms
12 and conditions as the property is being offered to
13 other parties.

14 (3) DISPOSITION OF PROCEEDS.—Proceeds
15 from the disposal by sale or transfer of any such
16 property or interests in such property shall be depos-
17 ited in the fund established by section 109(c).

18 **SEC. 106. COMPLIANCE WITH APPLICABLE LAW.**

19 (a) APPLICABLE LAW.—

20 (1) IN GENERAL.—In undertaking the measures
21 authorized by this Act, the Secretary and the Sec-
22 retary of Commerce shall comply with all applicable
23 Federal and State laws, rules, and regulations, in-
24 cluding the National Environmental Policy Act of
25 1969 (42 U.S.C. 4321 et seq.) and the Endangered

1 Species Act of 1973 (16 U.S.C. 1531 et seq.), as
2 necessary.

3 (2) ENVIRONMENTAL REVIEWS.—The Secretary
4 and the Secretary of Commerce are authorized and
5 directed to initiate and expeditiously complete appli-
6 cable environmental reviews and consultations as
7 may be necessary to effectuate the purposes of the
8 Settlement.

9 (b) EFFECT ON STATE LAW.—Nothing in this Act
10 shall preempt State law or modify any existing obligation
11 of the United States under Federal reclamation law to op-
12 erate the Central Valley Project in conformity with State
13 law.

14 (c) USE OF FUNDS FOR ENVIRONMENTAL RE-
15 VIEWS.—

16 (1) DEFINITION OF ENVIRONMENTAL RE-
17 VIEW.—For purposes of this subsection, the term
18 “environmental review” includes any consultation
19 and planning necessary to comply with subsection
20 (a).

21 (2) PARTICIPATION IN ENVIRONMENTAL RE-
22 VIEW PROCESS.—In undertaking the measures au-
23 thorized by section 104, and for which environ-
24 mental review is required, the Secretary may provide
25 funds made available under this Act to affected Fed-

1 Secretary contained in section 3406(e)(1) of the Reclama-
2 tion Projects Authorization and Adjustment Act of 1992
3 (Public Law 102–575; 106 Stat. 4721), provided, how-
4 ever, that—

5 (1) the Secretary shall continue to assess and
6 collect the charges provided in section 3406(e)(1) of
7 the Reclamation Projects Authorization and Adjust-
8 ment Act of 1992 (Public Law 102–575; 106 Stat.
9 4721), as provided in the Settlement and section
10 109(d); and

11 (2) those assessments and collections shall con-
12 tinue to be counted towards the requirements of the
13 Secretary contained in section 3407(e)(2) of the
14 Reclamation Projects Authorization and Adjustment
15 Act of 1992 (Public Law 102–575; 106 Stat. 4726).

16 **SEC. 108. NO PRIVATE RIGHT OF ACTION.**

17 (a) IN GENERAL.—Nothing in this Act confers upon
18 any person or entity not a party to the Settlement a pri-
19 vate right of action or claim for relief to interpret or en-
20 force the provisions of this Act or the Settlement.

21 (b) APPLICABLE LAW.—This section shall not alter
22 or curtail any right of action or claim for relief under any
23 other applicable law.

24 **SEC. 109. APPROPRIATIONS; SETTLEMENT FUND.**

25 (a) IMPLEMENTATION COSTS.—

1 (1) IN GENERAL.—The costs of implementing
2 the Settlement shall be covered by payments or in
3 kind contributions made by Friant Division contrac-
4 tors and other non-Federal parties, including the
5 funds provided in paragraphs (1) through (5) of
6 subsection (c), estimated to total \$440,000,000, of
7 which the non-Federal payments are estimated to
8 total \$200,000,000 (at October 2006 price levels)
9 and the amount from repaid Central Valley Project
10 capital obligations is estimated to total
11 \$240,000,000, the additional Federal appropriation
12 of \$250,000,000 authorized pursuant to subsection
13 (b)(1), and such additional funds authorized pursu-
14 ant to subsection (b)(2); provided however, that the
15 costs of implementing the provisions of section
16 104(a)(1) shall be shared by the State of California
17 pursuant to the terms of a Memorandum of Under-
18 standing executed by the State of California and the
19 Parties to the Settlement on September 13, 2006,
20 which includes at least \$110,000,000 of State funds.

21 (2) ADDITIONAL AGREEMENTS.—

22 (A) IN GENERAL.—The Secretary shall
23 enter into 1 or more agreements to fund or im-
24 plement improvements on a project-by-project
25 basis with the State of California.

1 (B) REQUIREMENTS.—Any agreements en-
2 tered into under subparagraph (A) shall provide
3 for recognition of either monetary or in-kind
4 contributions toward the State of California’s
5 share of the cost of implementing the provisions
6 of section 104(a)(1).

7 (3) LIMITATION.—Except as provided in the
8 Settlement, to the extent that costs incurred solely
9 to implement this Settlement would not otherwise
10 have been incurred by any entity or public or local
11 agency or subdivision of the State of California, such
12 costs shall not be borne by any such entity, agency,
13 or subdivision of the State of California, unless such
14 costs are incurred on a voluntary basis.

15 (b) AUTHORIZATION OF APPROPRIATIONS.—

16 (1) IN GENERAL.—In addition to the funds pro-
17 vided in paragraphs (1) through (5) of subsection
18 (c), there are also authorized to be appropriated not
19 to exceed \$250,000,000 (at October 2006 price lev-
20 els) to implement this Act and the Settlement, to be
21 available until expended; provided however, that the
22 Secretary is authorized to spend such additional ap-
23 propriations only in amounts equal to the amount of
24 funds deposited in the Fund (not including pay-
25 ments under subsection (c)(2), proceeds under sub-

1 section (c)(3) other than an amount equal to what
2 would otherwise have been deposited under sub-
3 section (c)(1) in the absence of issuance of the bond,
4 and proceeds under subsection (c)(4)), the amount
5 of in-kind contributions, and other non-Federal pay-
6 ments actually committed to the implementation of
7 this Act or the Settlement.

8 (2) OTHER FUNDS.—The Secretary is author-
9 ized to use monies from the Fund created under sec-
10 tion 3407 of the Reclamation Projects Authorization
11 and Adjustment Act of 1992 (Public Law 102–575;
12 106 Stat. 4727) for purposes of this Act.

13 (c) FUND.—There is hereby established within the
14 Treasury of the United States a fund, to be known as the
15 “San Joaquin River Restoration Fund”, into which the
16 following shall be deposited and used solely for the purpose
17 of implementing the Settlement, to be available for ex-
18 penditure without further appropriation:

19 (1) At the beginning of the fiscal year following
20 enactment of this Act, all payments received pursu-
21 ant to section 3406(c)(1) of the Reclamation
22 Projects Authorization and Adjustment Act of 1992
23 (Public Law 102–575; 106 Stat. 4721).

24 (2) The construction cost component (not oth-
25 erwise needed to cover operation and maintenance

1 costs) of payments made by Friant Division, Hidden
2 Unit, and Buchanan Unit contractors pursuant to
3 long-term water service contracts or pursuant to re-
4 payment contracts, including repayment contracts
5 executed pursuant to section 110 of this Act. The
6 construction cost repayment obligation assigned such
7 contractors under such contracts shall be reduced by
8 the amount paid pursuant to this paragraph and the
9 appropriate share of the existing Federal investment
10 in the Central Valley project to be recovered by the
11 Secretary pursuant to Public Law 99–546 (100
12 Stat. 3050) shall be reduced by an equivalent sum.

13 (3) Proceeds from the sale of water pursuant to
14 the Settlement, or from the sale of property or inter-
15 ests in property as provided in section 105, to be
16 available without further appropriation.

17 (4) Any non-Federal funds, including State
18 cost-sharing funds, contributed to the United States
19 for implementation of the Settlement, which the Sec-
20 retary may expend without further appropriation for
21 the purposes for which contributed.

22 (d) LIMITATION ON CONTRIBUTIONS.—Payments
23 made by long-term contractors who receive water from the
24 Friant Division and Hidden and Buchanan Units of the
25 Central Valley Project pursuant to sections 3406(e)(1)

1 and 3407(d)(2) of the Reclamation Projects Authorization
2 and Adjustment Act of 1992 (Public Law 102–575; 106
3 Stat. 4721, 4727) and payments made pursuant to para-
4 graph 16(b)(3) of the Settlement and subsection (c)(2)
5 shall be the limitation of such entities’ direct financial con-
6 tribution to the Settlement, subject to the terms and con-
7 ditions of paragraph 21 of the Settlement.

8 (e) NO ADDITIONAL EXPENDITURES REQUIRED.—
9 Nothing in this Act shall be construed to require a Federal
10 official to expend Federal funds not appropriated by Con-
11 gress, or to seek the appropriation of additional funds by
12 Congress, for the implementation of the Settlement.

13 (f) REACH 4B.—

14 (1) STUDY.—

15 (A) IN GENERAL.—In accordance with the
16 Settlement and the Memorandum of Under-
17 standing executed pursuant to paragraph 6 of
18 the Settlement, the Secretary shall conduct a
19 study that specifies—

20 (i) the costs of undertaking any work
21 required under paragraph 11(a)(3) of the
22 Settlement to increase the capacity of
23 Reach 4B prior to reinitiation of Restora-
24 tion Flows;

1 (ii) the impacts associated with re-
2 initiation of such flows; and

3 (iii) measures that shall be imple-
4 mented to mitigate impacts.

5 (B) DEADLINE.—The study under sub-
6 paragraph (A) shall be completed prior to res-
7 toration of any flows other than Interim Flows.

8 (2) REPORT.—

9 (A) IN GENERAL.—The Secretary shall file
10 a report with Congress not later than 90 days
11 after issuing a determination, as required by
12 the Settlement, on whether to expand channel
13 conveyance capacity to 4500 cubic feet per sec-
14 ond in Reach 4B of the San Joaquin River, or
15 use an alternative route for pulse flows, that—

16 (i) explains whether the Secretary has
17 decided to expand Reach 4B capacity to
18 4500 cubic feet per second; and

19 (ii) addresses the following matters:

20 (I) The basis for the Secretary's
21 determination, whether set out in en-
22 vironmental review documents or oth-
23 erwise, as to whether the expansion of
24 Reach 4B would be the preferable
25 means to achieve the Restoration Goal

1 as provided in the Settlement, includ-
2 ing how different factors were as-
3 sessed such as comparative biological
4 and habitat benefits, comparative
5 costs, relative availability of State
6 cost-sharing funds, and the compara-
7 tive benefits and impacts on water
8 temperature, water supply, private
9 property, and local and downstream
10 flood control.

11 (II) The Secretary's final cost es-
12 timate for expanding Reach 4B capac-
13 ity to 4500 cubic feet per second, or
14 any alternative route selected, as well
15 as the alternative cost estimates pro-
16 vided by the State, by the Restoration
17 Administrator, and by the other par-
18 ties to the Settlement.

19 (III) The Secretary's plan for
20 funding the costs of expanding Reach
21 4B or any alternative route selected,
22 whether by existing Federal funds
23 provided under this Act, by non-Fed-
24 eral funds, by future Federal appro-

1 priations, or some combination of
2 such sources.

3 (B) DETERMINATION REQUIRED.—The
4 Secretary shall, to the extent feasible, make the
5 determination in subparagraph (A) prior to un-
6 dertaking any substantial construction work to
7 increase capacity in Reach 4B.

8 (3) COSTS.—If the Secretary’s estimated Fed-
9 eral cost for expanding Reach 4B in paragraph (2),
10 in light of the Secretary’s funding plan set out in
11 paragraph (2), would exceed the remaining Federal
12 funding authorized by this Act (including all funds
13 reallocated, all funds dedicated, and all new funds
14 authorized by this Act and separate from all com-
15 mitments of State and other non-Federal funds and
16 in-kind commitments), then before the Secretary
17 commences actual construction work in Reach 4B
18 (other than planning, design, feasibility, or other
19 preliminary measures) to expand capacity to 4500
20 cubic feet per second to implement this Settlement,
21 Congress must have increased the applicable author-
22 ization ceiling provided by this Act in an amount at
23 least sufficient to cover the higher estimated Federal
24 costs.

1 **SEC. 110. REPAYMENT CONTRACTS AND ACCELERATION OF**
2 **REPAYMENT OF CONSTRUCTION COSTS.**

3 (a) **CONVERSION OF CONTRACTS.**—The Secretary is
4 authorized and directed to convert, prior to December 31,
5 2010, all existing Friant Division, Hidden Unit, and Bu-
6 chanan Unit long-term contracts entered under subsection
7 (e) of section 109 of the Act of August 4, 1939 (53 Stat.
8 1196) to a contract under subsection (d) of section 9 of
9 said Act (53 Stat. 1195), under mutually agreeable terms
10 and conditions. Upon request of the contractor, the Sec-
11 retary is further authorized to convert, prior to December
12 31, 2010, any existing Friant Division long-term contract
13 entered under subsection (c)(2) of section 9 of the Act
14 of August 4, 1939 (53 Stat. 1194), to a contract under
15 subsection (c)(1) of section 9 of said Act, under mutually
16 agreeable terms and conditions. All such contracts shall—
17 (1) require the repayment, either in lump sum
18 or by accelerated pre-payment, of the remaining
19 amount of construction cost identified in the Central
20 Valley Project Schedule of Irrigation Capital Rates
21 by Contractor 2007 Irrigation Water Rates, dated
22 January 25, 2007, as adjusted to reflect payments
23 not reflected in such schedule, and properly assign-
24 able for ultimate return by the contractor, no later
25 than January 31, 2011, or if made in approximately

1 equal annual installments, not later than January
2 31, 2014;

3 (2) require that, notwithstanding subsection
4 (c)(2), construction costs, including construction
5 costs or other capitalized costs incurred after the ef-
6 fective date of the contract, properly assignable to
7 such contractor but not reflected in the Schedule
8 referenced in paragraph (1) shall be repaid in not
9 more than 5 years after notification of the alloca-
10 tion, unless the Secretary and the contractor agree
11 upon a longer repayment period consistent with ap-
12 plicable law;

13 (3) provide that power revenues will not be
14 available to aid in repayment of construction costs
15 allocated to irrigation under the contract; and

16 (4) conform to the Settlement and this Act and
17 shall continue so long as the contractor pays applica-
18 ble charges, consistent with subsection (c)(2).

19 (b) FINAL ADJUSTMENT.—The amounts paid pursu-
20 ant to subsection (a) shall be subject to adjustment fol-
21 lowing a final cost allocation by the Secretary upon com-
22 pletion of the construction of the Central Valley Project.
23 In the event that the final cost allocation indicates that
24 the costs properly assignable to the contractor are greater
25 than what has been paid by the contractor, the contractor

1 shall be obligated to pay the remaining allocated costs.
2 The term of such additional repayment contract shall be
3 no less than one year and no more than 10 years, however,
4 mutually agreeable provisions regarding the rate of repay-
5 ment of such amount may be developed by the parties.
6 In the event that the final cost allocation indicates that
7 the costs properly assignable to the contractor are less
8 than what the contractor has paid, the Secretary is au-
9 thorized and directed to credit such overpayment as an
10 offset against any outstanding or future obligation of the
11 contractor.

12 (c) APPLICABILITY OF CERTAIN PROVISIONS.—Not-
13 withstanding any repayment obligation under subsection
14 (a)(2) or (b), upon a contractor's compliance with and dis-
15 charge of the obligation of repayment of the construction
16 costs as provided in subsection (a)(1)—

17 (1) the provisions of section 213(a) and (b) of
18 the Reclamation Reform Act of 1982 (96 Stat.
19 1269) shall apply to lands in such district; and

20 (2) the Secretary shall waive the pricing provi-
21 sions of section 3405(d) of the Reclamation Projects
22 Authorization and Adjustment Act of 1992 (Public
23 Law 102–575) for such contractor, provided that
24 such contractor shall continue to pay applicable op-
25 eration and maintenance costs and other charges ap-

1 plicable to such repayment contracts pursuant to the
2 then-current ratesetting policy and applicable law.

3 (d) REDUCTION OF CHARGE.—Beginning in 2019,
4 the Secretary shall reduce the charge mandated in section
5 107(1) of the Act in recognition of the financing costs in-
6 curred in making 110(a)(1) payments.

7 (e) SATISFACTION OF CERTAIN PROVISIONS.—

8 (1) IN GENERAL.—Upon the first release of In-
9 terim Flows or Restoration Flows, pursuant to para-
10 graphs 13 or 15 of the Settlement, any short- or
11 long-term agreement to which one or more long-term
12 Friant water service or repayment contractors is a
13 party providing for the transfer or exchange of water
14 not released as Interim Flows or Restoration Flows
15 shall be deemed to satisfy the provisions of sub-
16 section 3405(a)(1)(A) and (I) of the Reclamation
17 Projects Authorization and Adjustment Act of 1992
18 (Public Law 102–575) without the further concur-
19 rence of the Secretary as to compliance with said
20 subsections if the contractor provides, not later than
21 90 days before commencement of such transfer or
22 exchange, written notice to the Secretary stating
23 how the proposed transfer or exchange is intended to
24 reduce, avoid, or mitigate impacts to water deliveries
25 caused by the Interim Flows or Restoration Flows

1 or is intended to otherwise facilitate the Water Man-
2 agement Goal, as described in the Settlement. The
3 Secretary shall promptly make such notice publicly
4 available.

5 (2) DETERMINATION OF REDUCTIONS TO
6 WATER DELIVERIES.—Water transferred or ex-
7 changed under an agreement that meets the terms
8 of this subsection shall not be counted as a replace-
9 ment or an offset for purposes of determining reduc-
10 tions to water deliveries to any Friant Division long-
11 term contractor except as provided in paragraph
12 16(b) of the Settlement. The Secretary shall, at least
13 annually, make publicly available a compilation of
14 the number of transfer or exchange agreements exer-
15 cising the provisions of this subsection to reduce,
16 avoid, or mitigate impacts to water deliveries caused
17 by the Interim Flows or Restoration Flows or to fa-
18 cilitate the Water Management Goal, as well as the
19 volume of water transferred or exchanged under
20 such agreements.

21 (3) STATE LAW.—Nothing in this subsection al-
22 ters State law or permit conditions, including any
23 applicable geographical restrictions on the place of
24 use of water transferred or exchanged pursuant to
25 this subsection.

1 (f) CERTAIN REPAYMENT OBLIGATIONS NOT AL-
2 TERED.—Implementation of the provisions of this section
3 shall not alter the repayment obligation of any other long-
4 term water contractor receiving water from the Central
5 Valley Project.

6 (g) STATUTORY INTERPRETATION.—Nothing in this
7 Act shall be construed to affect the right of any Friant
8 Division long-term contractor to use a particular type of
9 financing to make the payments required in subsection
10 (a)(1).

11 **SEC. 111. CALIFORNIA CENTRAL VALLEY SPRING RUN CHI-**
12 **NOOK SALMON.**

13 (a) FINDING.—Congress finds that the implementa-
14 tion of the Settlement to resolve 18 years of contentious
15 litigation regarding restoration of the San Joaquin River
16 and the reintroduction of the California Central Valley
17 Spring Run Chinook salmon is a unique and unprece-
18 dented circumstance that requires clear expressions of
19 Congressional intent regarding how the provisions of the
20 Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)
21 are utilized to achieve the goals of restoration of the San
22 Joaquin River and the successful reintroduction of Cali-
23 fornia Central Valley Spring Run Chinook salmon.

24 (b) REINTRODUCTION IN THE SAN JOAQUIN
25 RIVER.—California Central Valley Spring Run Chinook

1 salmon shall be reintroduced in the San Joaquin River
2 below Friant Dam pursuant to section 10(j) of the Endan-
3 gered Species Act of 1973 (16 U.S.C. 1539(j)) and the
4 Settlement, provided that the Secretary of Commerce
5 finds that a permit for the reintroduction of California
6 Central Valley Spring Run Chinook salmon may be issued
7 pursuant to section 10(a)(1)(A) of the Endangered Spe-
8 cies Act of 1973 (16 U.S.C. 1539(a)(1)(A)).

9 (c) FINAL RULE.—

10 (1) DEFINITION OF THIRD PARTY.—For the
11 purpose of this subsection, the term “third party”
12 means persons or entities diverting or receiving
13 water pursuant to applicable State and Federal law
14 and shall include Central Valley Project contractors
15 outside of the Friant Division of the Central Valley
16 Project and the State Water Project.

17 (2) ISSUANCE.—The Secretary of Commerce
18 shall issue a final rule pursuant to section 4(d) of
19 the Endangered Species Act of 1973 (16 U.S.C.
20 1533(d)) governing the incidental take of reintro-
21 duced California Central Valley Spring Run Chinook
22 salmon prior to the reintroduction.

23 (3) REQUIRED COMPONENTS.—The rule issued
24 under paragraph (2) shall provide that the reintro-
25 duction will not impose more than de minimus:

1 water supply reductions, additional storage releases,
2 or bypass flows on unwilling third parties due to
3 such reintroduction.

4 (4) APPLICABLE LAW.—Nothing in this sec-
5 tion—

6 (A) diminishes the statutory or regulatory
7 protections provided in the Endangered Species
8 Act for any species listed pursuant to section 4
9 of the Endangered Species Act of 1973 (16
10 U.S.C. 1533) other than the reintroduced popu-
11 lation of California Central Valley Spring Run
12 Chinook salmon, including protections pursuant
13 to existing biological opinions or new biological
14 opinions issued by the Secretary or Secretary of
15 Commerce; or

16 (B) precludes the Secretary or Secretary of
17 Commerce from imposing protections under the
18 Endangered Species Act of 1973 (16 U.S.C.
19 1531 et seq.) for other species listed pursuant
20 to section 4 of that Act (16 U.S.C. 1533) be-
21 cause those protections provide incidental bene-
22 fits to such reintroduced California Central Val-
23 ley Spring Run Chinook salmon.

24 (d) REPORT.—

1 (1) IN GENERAL.—Not later than December 31,
2 2024, the Secretary of Commerce shall report to
3 Congress on the progress made on the reintroduction
4 set forth in this section and the Secretary’s plans for
5 future implementation of this section.

6 (2) INCLUSIONS.—The report under paragraph
7 (1) shall include—

8 (A) an assessment of the major challenges,
9 if any, to successful reintroduction;

10 (B) an evaluation of the effect, if any, of
11 the reintroduction on the existing population of
12 California Central Valley Spring Run Chinook
13 salmon existing on the Sacramento River or its
14 tributaries; and

15 (C) an assessment regarding the future of
16 the reintroduction.

17 (e) FERC PROJECTS.—

18 (1) IN GENERAL.—With regard to California
19 Central Valley Spring Run Chinook salmon reintro-
20 duced pursuant to the Settlement, the Secretary of
21 Commerce shall exercise its authority under section
22 18 of the Federal Power Act (16 U.S.C. 811) by re-
23 serving its right to file prescriptions in proceedings
24 for projects licensed by the Federal Energy Regu-
25 latory Commission on the Calaveras, Stanislaus,

1 Tuolumne, Merced, and San Joaquin rivers and oth-
2 erwise consistent with subsection (c) until after the
3 expiration of the term of the Settlement, December
4 31, 2025, or the expiration of the designation made
5 pursuant to subsection (b), whichever ends first.

6 (2) EFFECT OF SUBSECTION.—Nothing in this
7 subsection shall preclude the Secretary of Commerce
8 from imposing prescriptions pursuant to section 18
9 of the Federal Power Act (16 U.S.C. 811) solely for
10 other anadromous fish species because those pre-
11 scriptions provide incidental benefits to such reintro-
12 duced California Central Valley Spring Run Chinook
13 salmon.

14 (f) EFFECT OF SECTION.—Nothing in this section is
15 intended or shall be construed—

16 (1) to modify the Endangered Species Act of
17 1973 (16 U.S.C. 1531 et seq.) or the Federal Power
18 Act (16 U.S.C. 791a et seq.); or

19 (2) to establish a precedent with respect to any
20 other application of the Endangered Species Act of
21 1973 (16 U.S.C. 1531 et seq.) or the Federal Power
22 Act (16 U.S.C. 791a et seq.).

23 **SEC. 112. OFFSETTING RECEIPTS.**

24 (a) CONSERVATION OF RESOURCES FEE FOR NON-
25 PRODUCING FEDERAL OIL AND GAS LEASES IN THE

1 GULF OF MEXICO.—Not later than 60 days after the date
2 of enactment of this Act, the Secretary of the Interior by
3 regulation shall establish a conservation of resources fee
4 for nonproducing Federal oil and gas leases in the Gulf
5 of Mexico.

6 (b) NONPRODUCING LEASE FEE TERMS.—The fee
7 under subsection (a)—

8 (1) subject to paragraph (3), shall apply to
9 leases that are nonproducing leases;

10 (2) shall be set at \$3.75 per acre per year in
11 2005 dollars; and

12 (3) shall apply on and after October 1, 2006.

13 (c) TREATMENT OF RECEIPTS.—Amounts received
14 by the United States as fees under this section shall be
15 treated as offsetting receipts.

16 **TITLE II—STUDY TO DEVELOP** 17 **WATER PLAN; REPORT**

18 **SEC. 201. STUDY TO DEVELOP WATER PLAN; REPORT.**

19 (a) PLAN.—

20 (1) GRANT.—To the extent that funds are
21 made available in advance for this purpose, the Sec-
22 retary of the Interior, acting through the Bureau of
23 Reclamation, shall provide direct financial assistance
24 to the California Water Institute, located at Cali-
25 fornia State University, Fresno, California, to con-

1 duct a study regarding the coordination and integra-
2 tion of sub-regional integrated regional water man-
3 agement plans into a unified Integrated Regional
4 Water Management Plan for the subject counties in
5 the hydrologic basins that would address issues re-
6 lated to—

7 (A) water quality;

8 (B) water supply (both surface, ground-
9 water banking, and brackish water desalina-
10 tion);

11 (C) water conveyance;

12 (D) water reliability;

13 (E) flood control;

14 (F) water resource-related environmental
15 enhancement; and

16 (G) population growth.

17 (2) STUDY AREA.—The study area referred to
18 in paragraph (1) is the proposed study area of the
19 San Joaquin River Hydrologic Region and Tulare
20 Lake Hydrologic Region, as defined by California
21 Department of Water Resources Bulletin 160–05,
22 Volume 3, Chapters 7 and 8, including Kern,
23 Tulare, Kings, Fresno, Madera, Merced, Stanislaus,
24 and San Joaquin counties in California.

1 (b) USE OF PLAN.—The Integrated Regional Water
2 Management Plan developed for the 2 hydrologic basins
3 under subsection (a) shall serve as a guide for the 8 coun-
4 ties in the study area described in subsection (a)(2) to use
5 as a mechanism to address and solve long-term water
6 needs in a sustainable and equitable manner.

7 (c) REPORT.—The Secretary shall ensure that a re-
8 port containing the results of the Integrated Regional
9 Water Management Plan for the hydrologic regions is sub-
10 mitted to the Committee on Natural Resources of the
11 House of Representatives and the Committee on Energy
12 and Natural Resources of the Senate not later than 24
13 months after financial assistance is made available to the
14 California Water Institute under subsection (a)(1).

15 (d) AUTHORIZATION OF APPROPRIATIONS.—There
16 are authorized to be appropriated to carry out this section
17 \$1,000,000 to remain available until expended.

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