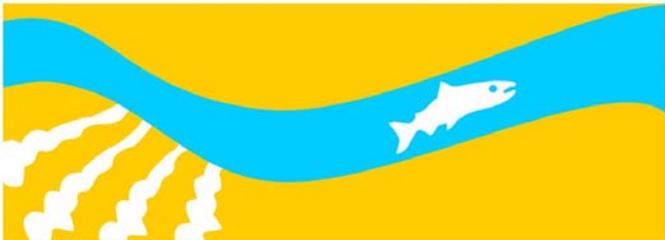


## Appendix B

# San Joaquin River Restoration Settlement Act

**Water Year 2010 Interim Flows Project  
Draft Environmental Assessment/Initial Study**

**SAN JOAQUIN RIVER**  
RESTORATION PROGRAM





1 **SEC. 9605. AUTHORIZATION OF APPROPRIATIONS.**

2 *There are authorized to be appropriated such sums as*  
3 *are necessary to carry out this subtitle.*

4 **TITLE X—WATER SETTLEMENTS**

5 **Subtitle A—San Joaquin River**

6 **Restoration Settlement**

7 **PART I—SAN JOAQUIN RIVER RESTORATION**

8 **SETTLEMENT ACT**

9 **SEC. 10001. SHORT TITLE.**

10 *This part may be cited as the “San Joaquin River*  
11 *Restoration Settlement Act”.*

12 **SEC. 10002. PURPOSE.**

13 *The purpose of this part is to authorize implementa-*  
14 *tion of the Settlement.*

15 **SEC. 10003. DEFINITIONS.**

16 *In this part:*

17 *(1) The terms “Friant Division long-term con-*  
18 *tractors”, “Interim Flows”, “Restoration Flows”,*  
19 *“Recovered Water Account”, “Restoration Goal”, and*  
20 *“Water Management Goal” have the meanings given*  
21 *the terms in the Settlement.*

22 *(2) The term “Secretary” means the Secretary of*  
23 *the Interior.*

24 *(3) The term “Settlement” means the Stipulation*  
25 *of Settlement dated September 13, 2006, in the litiga-*  
26 *tion entitled Natural Resources Defense Council, et al.*

1 *v. Kirk Rodgers, et al., United States District Court,*  
2 *Eastern District of California, No. CIV. S-88-1658-*  
3 *LKK/GGH.*

4 **SEC. 10004. IMPLEMENTATION OF SETTLEMENT.**

5 (a) *IN GENERAL.*—*The Secretary of the Interior is*  
6 *hereby authorized and directed to implement the terms and*  
7 *conditions of the Settlement in cooperation with the State*  
8 *of California, including the following measures as these*  
9 *measures are prescribed in the Settlement:*

10 (1) *Design and construct channel and structural*  
11 *improvements as described in paragraph 11 of the*  
12 *Settlement, provided, however, that the Secretary*  
13 *shall not make or fund any such improvements to fa-*  
14 *cilities or property of the State of California without*  
15 *the approval of the State of California and the State's*  
16 *agreement in 1 or more memoranda of understanding*  
17 *to participate where appropriate.*

18 (2) *Modify Friant Dam operations so as to pro-*  
19 *vide Restoration Flows and Interim Flows.*

20 (3) *Acquire water, water rights, or options to ac-*  
21 *quire water as described in paragraph 13 of the Set-*  
22 *tlement, provided, however, such acquisitions shall*  
23 *only be made from willing sellers and not through*  
24 *eminent domain.*

1           (4) *Implement the terms and conditions of para-*  
2 *graph 16 of the Settlement related to recirculation, re-*  
3 *capture, reuse, exchange, or transfer of water released*  
4 *for Restoration Flows or Interim Flows, for the pur-*  
5 *pose of accomplishing the Water Management Goal of*  
6 *the Settlement, subject to—*

7           (A) *applicable provisions of California*  
8 *water law;*

9           (B) *the Secretary's use of Central Valley*  
10 *Project facilities to make Project water (other*  
11 *than water released from Friant Dam pursuant*  
12 *to the Settlement) and water acquired through*  
13 *transfers available to existing south-of-Delta*  
14 *Central Valley Project contractors; and*

15           (C) *the Secretary's performance of the*  
16 *Agreement of November 24, 1986, between the*  
17 *United States of America and the Department of*  
18 *Water Resources of the State of California for the*  
19 *coordinated operation of the Central Valley*  
20 *Project and the State Water Project as author-*  
21 *ized by Congress in section 2(d) of the Act of Au-*  
22 *gust 26, 1937 (50 Stat. 850, 100 Stat. 3051), in-*  
23 *cluding any agreement to resolve conflicts aris-*  
24 *ing from said Agreement.*

1           (5) *Develop and implement the Recovered Water*  
2 *Account as specified in paragraph 16(b) of the Settle-*  
3 *ment, including the pricing and payment crediting*  
4 *provisions described in paragraph 16(b)(3) of the Set-*  
5 *tlement, provided that all other provisions of Federal*  
6 *reclamation law shall remain applicable.*

7           (b) *AGREEMENTS.—*

8           (1) *AGREEMENTS WITH THE STATE.—In order to*  
9 *facilitate or expedite implementation of the Settle-*  
10 *ment, the Secretary is authorized and directed to*  
11 *enter into appropriate agreements, including cost-*  
12 *sharing agreements, with the State of California.*

13           (2) *OTHER AGREEMENTS.—The Secretary is au-*  
14 *thorized to enter into contracts, memoranda of under-*  
15 *standing, financial assistance agreements, cost shar-*  
16 *ing agreements, and other appropriate agreements*  
17 *with State, tribal, and local governmental agencies,*  
18 *and with private parties, including agreements re-*  
19 *lated to construction, improvement, and operation*  
20 *and maintenance of facilities, subject to any terms*  
21 *and conditions that the Secretary deems necessary to*  
22 *achieve the purposes of the Settlement.*

23           (c) *ACCEPTANCE AND EXPENDITURE OF NON-FEDERAL*  
24 *FUNDS.—The Secretary is authorized to accept and expend*

1 *non-Federal funds in order to facilitate implementation of*  
2 *the Settlement.*

3 (d) *MITIGATION OF IMPACTS.—Prior to the implemen-*  
4 *tation of decisions or agreements to construct, improve, op-*  
5 *erate, or maintain facilities that the Secretary determines*  
6 *are needed to implement the Settlement, the Secretary shall*  
7 *identify—*

8 (1) *the impacts associated with such actions; and*

9 (2) *the measures which shall be implemented to*  
10 *mitigate impacts on adjacent and downstream water*  
11 *users and landowners.*

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

15 (f) *EFFECT ON CONTRACT WATER ALLOCATIONS.—Ex-*  
16 *cept as otherwise provided in this section, the implementa-*  
17 *tion of the Settlement and the reintroduction of California*  
18 *Central Valley Spring Run Chinook salmon pursuant to*  
19 *the Settlement and section 10011, shall not result in the*  
20 *involuntary reduction in contract water allocations to Cen-*  
21 *tral Valley Project long-term contractors, other than Friant*  
22 *Division long-term contractors.*

23 (g) *EFFECT ON EXISTING WATER CONTRACTS.—Ex-*  
24 *cept as provided in the Settlement and this part, nothing*  
25 *in this part shall modify or amend the rights and obliga-*

1 *tions of the parties to any existing water service, repay-*  
2 *ment, purchase, or exchange contract.*

3 *(h) INTERIM FLOWS.—*

4 *(1) STUDY REQUIRED.—Prior to releasing any*  
5 *Interim Flows under the Settlement, the Secretary*  
6 *shall prepare an analysis in compliance with the Na-*  
7 *tional Environmental Policy Act of 1969 (42 U.S.C.*  
8 *4321 et seq.), including at a minimum—*

9 *(A) an analysis of channel conveyance ca-*  
10 *pacities and potential for levee or groundwater*  
11 *seepage;*

12 *(B) a description of the associated seepage*  
13 *monitoring program;*

14 *(C) an evaluation of—*

15 *(i) possible impacts associated with the*  
16 *release of Interim Flows; and*

17 *(ii) mitigation measures for those im-*  
18 *acts that are determined to be significant;*

19 *(D) a description of the associated flow*  
20 *monitoring program; and*

21 *(E) an analysis of the likely Federal costs,*  
22 *if any, of any fish screens, fish bypass facilities,*  
23 *fish salvage facilities, and related operations on*  
24 *the San Joaquin River south of the confluence*  
25 *with the Merced River required under the En-*

1           *dangered Species Act of 1973 (16 U.S.C. 1531 et*  
2           *seq.) as a result of the Interim Flows.*

3           (2) *CONDITIONS FOR RELEASE.—The Secretary*  
4           *is authorized to release Interim Flows to the extent*  
5           *that such flows would not—*

6                     (A) *impede or delay completion of the meas-*  
7                     *ures specified in Paragraph 11(a) of the Settle-*  
8                     *ment; or*

9                     (B) *exceed existing downstream channel ca-*  
10                    *pacities.*

11           (3) *SEEPAGE IMPACTS.—The Secretary shall re-*  
12           *duce Interim Flows to the extent necessary to address*  
13           *any material adverse impacts to third parties from*  
14           *groundwater seepage caused by such flows that the*  
15           *Secretary identifies based on the monitoring program*  
16           *of the Secretary.*

17           (4) *TEMPORARY FISH BARRIER PROGRAM.—The*  
18           *Secretary, in consultation with the California De-*  
19           *partment of Fish and Game, shall evaluate the effec-*  
20           *tiveness of the Hills Ferry barrier in preventing the*  
21           *unintended upstream migration of anadromous fish*  
22           *in the San Joaquin River and any false migratory*  
23           *pathways. If that evaluation determines that any*  
24           *such migration past the barrier is caused by the in-*  
25           *troduction of the Interim Flows and that the presence*

1 *of such fish will result in the imposition of additional*  
2 *regulatory actions against third parties, the Secretary*  
3 *is authorized to assist the Department of Fish and*  
4 *Game in making improvements to the barrier. From*  
5 *funding made available in accordance with section*  
6 *10009, if third parties along the San Joaquin River*  
7 *south of its confluence with the Merced River are re-*  
8 *quired to install fish screens or fish bypass facilities*  
9 *due to the release of Interim Flows in order to comply*  
10 *with the Endangered Species Act of 1973 (16 U.S.C.*  
11 *1531 et seq.), the Secretary shall bear the costs of the*  
12 *installation of such screens or facilities if such costs*  
13 *would be borne by the Federal Government under sec-*  
14 *tion 10009(a)(3), except to the extent that such costs*  
15 *are already or are further willingly borne by the*  
16 *State of California or by the third parties.*

17 *(i) FUNDING AVAILABILITY.—*

18 *(1) IN GENERAL.—Funds shall be collected in the*  
19 *San Joaquin River Restoration Fund through October*  
20 *1, 2019, and thereafter, with substantial amounts*  
21 *available through October 1, 2019, pursuant to section*  
22 *10009 for implementation of the Settlement and parts*  
23 *I and III, including—*

1           (A) \$88,000,000, to be available without  
2           *further appropriation pursuant to section*  
3           10009(c)(2);

4           (B) *additional amounts authorized to be*  
5           *appropriated, including the charges required*  
6           *under section 10007 and an estimated*  
7           *\$20,000,000 from the CVP Restoration Fund*  
8           *pursuant to section 10009(b)(2); and*

9           (C) *an aggregate commitment of at least*  
10          *\$200,000,000 by the State of California.*

11          (2) *ADDITIONAL AMOUNTS.—Substantial addi-*  
12          *tional amounts from the San Joaquin River Restora-*  
13          *tion Fund shall become available without further ap-*  
14          *propriation after October 1, 2019, pursuant to section*  
15          10009(c)(2).

16          (3) *EFFECT OF SUBSECTION.—Nothing in this*  
17          *subsection limits the availability of funds authorized*  
18          *for appropriation pursuant to section 10009(b) or*  
19          10203(c).

20          (j) *SAN JOAQUIN RIVER EXCHANGE CONTRACT.—Sub-*  
21          *ject to section 10006(b), nothing in this part shall modify*  
22          *or amend the rights and obligations under the Purchase*  
23          *Contract between Miller and Lux and the United States and*  
24          *the Second Amended Exchange Contract between the United*  
25          *States, Department of the Interior, Bureau of Reclamation*

1 *and Central California Irrigation District, San Luis Canal*  
 2 *Company, Firebaugh Canal Water District and Columbia*  
 3 *Canal Company.*

4 **SEC. 10005. ACQUISITION AND DISPOSAL OF PROPERTY;**  
 5 **TITLE TO FACILITIES.**

6 (a) *TITLE TO FACILITIES.*—*Unless acquired pursuant*  
 7 *to subsection (b), title to any facility or facilities, stream*  
 8 *channel, levees, or other real property modified or improved*  
 9 *in the course of implementing the Settlement authorized by*  
 10 *this part, and title to any modifications or improvements*  
 11 *of such facility or facilities, stream channel, levees, or other*  
 12 *real property—*

13 (1) *shall remain in the owner of the property;*  
 14 *and*

15 (2) *shall not be transferred to the United States*  
 16 *on account of such modifications or improvements.*

17 (b) *ACQUISITION OF PROPERTY.*—

18 (1) *IN GENERAL.*—*The Secretary is authorized to*  
 19 *acquire through purchase from willing sellers any*  
 20 *property, interests in property, or options to acquire*  
 21 *real property needed to implement the Settlement au-*  
 22 *thorized by this part.*

23 (2) *APPLICABLE LAW.*—*The Secretary is author-*  
 24 *ized, but not required, to exercise all of the authorities*  
 25 *provided in section 2 of the Act of August 26, 1937*

1       (50 Stat. 844, chapter 832), to carry out the measures  
2       authorized in this section and section 10004.

3       (c) *DISPOSAL OF PROPERTY.*—

4             (1) *IN GENERAL.*—Upon the Secretary's deter-  
5       mination that retention of title to property or inter-  
6       ests in property acquired pursuant to this part is no  
7       longer needed to be held by the United States for the  
8       furtherance of the Settlement, the Secretary is author-  
9       ized to dispose of such property or interest in prop-  
10      erty on such terms and conditions as the Secretary  
11      deems appropriate and in the best interest of the  
12      United States, including possible transfer of such  
13      property to the State of California.

14            (2) *RIGHT OF FIRST REFUSAL.*—In the event the  
15      Secretary determines that property acquired pursuant  
16      to this part through the exercise of its eminent do-  
17      main authority is no longer necessary for implemen-  
18      tation of the Settlement, the Secretary shall provide  
19      a right of first refusal to the property owner from  
20      whom the property was initially acquired, or his or  
21      her successor in interest, on the same terms and con-  
22      ditions as the property is being offered to other par-  
23      ties.

24            (3) *DISPOSITION OF PROCEEDS.*—Proceeds from  
25      the disposal by sale or transfer of any such property

1        *or interests in such property shall be deposited in the*  
2        *fund established by section 10009(c).*

3        (d) *GROUNDWATER BANK.*—*Nothing in this part au-*  
4        *thorizes the Secretary to operate a groundwater bank along*  
5        *or adjacent to the San Joaquin River upstream of the con-*  
6        *fluence with the Merced River, and any such groundwater*  
7        *bank shall be operated by a non-Federal entity.*

8        **SEC. 10006. COMPLIANCE WITH APPLICABLE LAW.**

9        (a) *APPLICABLE LAW.*—

10            (1) *IN GENERAL.*—*In undertaking the measures*  
11        *authorized by this part, the Secretary and the Sec-*  
12        *retary of Commerce shall comply with all applicable*  
13        *Federal and State laws, rules, and regulations, in-*  
14        *cluding the National Environmental Policy Act of*  
15        *1969 (42 U.S.C. 4321 et seq.) and the Endangered*  
16        *Species Act of 1973 (16 U.S.C. 1531 et seq.), as nec-*  
17        *essary.*

18            (2) *ENVIRONMENTAL REVIEWS.*—*The Secretary*  
19        *and the Secretary of Commerce are authorized and*  
20        *directed to initiate and expeditiously complete appli-*  
21        *cable environmental reviews and consultations as*  
22        *may be necessary to effectuate the purposes of the Set-*  
23        *tlement.*

24        (b) *EFFECT ON STATE LAW.*—*Nothing in this part*  
25        *shall preempt State law or modify any existing obligation*

1 *of the United States under Federal reclamation law to oper-*  
2 *ate the Central Valley Project in conformity with State law.*

3 *(c) USE OF FUNDS FOR ENVIRONMENTAL REVIEWS.—*

4 *(1) DEFINITION OF ENVIRONMENTAL REVIEW.—*

5 *For purposes of this subsection, the term “environ-*  
6 *mental review” includes any consultation and plan-*  
7 *ning necessary to comply with subsection (a).*

8 *(2) PARTICIPATION IN ENVIRONMENTAL REVIEW*

9 *PROCESS.—In undertaking the measures authorized*  
10 *by section 10004, and for which environmental review*  
11 *is required, the Secretary may provide funds made*  
12 *available under this part to affected Federal agencies,*  
13 *State agencies, local agencies, and Indian tribes if the*  
14 *Secretary determines that such funds are necessary to*  
15 *allow the Federal agencies, State agencies, local agen-*  
16 *cies, or Indian tribes to effectively participate in the*  
17 *environmental review process.*

18 *(3) LIMITATION.—Funds may be provided under*  
19 *paragraph (2) only to support activities that directly*  
20 *contribute to the implementation of the terms and*  
21 *conditions of the Settlement.*

22 *(d) NONREIMBURSABLE FUNDS.—The United States’*  
23 *share of the costs of implementing this part shall be nonre-*  
24 *imbursable under Federal reclamation law, provided that*  
25 *nothing in this subsection shall limit or be construed to*

1 *limit the use of the funds assessed and collected pursuant*  
2 *to sections 3406(c)(1) and 3407(d)(2) of the Reclamation*  
3 *Projects Authorization and Adjustment Act of 1992 (Public*  
4 *Law 102–575; 106 Stat. 4721, 4727), for implementation*  
5 *of the Settlement, nor shall it be construed to limit or mod-*  
6 *ify existing or future Central Valley Project ratesetting poli-*  
7 *cies.*

8 **SEC. 10007. COMPLIANCE WITH CENTRAL VALLEY PROJECT**  
9 **IMPROVEMENT ACT.**

10 *Congress hereby finds and declares that the Settlement*  
11 *satisfies and discharges all of the obligations of the Sec-*  
12 *retary contained in section 3406(c)(1) of the Reclamation*  
13 *Projects Authorization and Adjustment Act of 1992 (Public*  
14 *Law 102–575; 106 Stat. 4721), provided, however, that—*

15 *(1) the Secretary shall continue to assess and col-*  
16 *lect the charges provided in section 3406(c)(1) of the*  
17 *Reclamation Projects Authorization and Adjustment*  
18 *Act of 1992 (Public Law 102–575; 106 Stat. 4721),*  
19 *as provided in the Settlement; and*

20 *(2) those assessments and collections shall con-*  
21 *tinue to be counted toward the requirements of the*  
22 *Secretary contained in section 3407(c)(2) of the Rec-*  
23 *lamation Projects Authorization and Adjustment Act*  
24 *of 1992 (Public Law 102–575; 106 Stat. 4726).*

1 **SEC. 10008. NO PRIVATE RIGHT OF ACTION.**

2 (a) *IN GENERAL.*—Nothing in this part confers upon  
3 any person or entity not a party to the Settlement a private  
4 right of action or claim for relief to interpret or enforce  
5 the provisions of this part or the Settlement.

6 (b) *APPLICABLE LAW.*—This section shall not alter or  
7 curtail any right of action or claim for relief under any  
8 other applicable law.

9 **SEC. 10009. APPROPRIATIONS; SETTLEMENT FUND.**

10 (a) *IMPLEMENTATION COSTS.*—

11 (1) *IN GENERAL.*—The costs of implementing the  
12 Settlement shall be covered by payments or in-kind  
13 contributions made by Friant Division contractors  
14 and other non-Federal parties, including the funds  
15 provided in subparagraphs (A) through (D) of sub-  
16 section (c)(1), estimated to total \$440,000,000, of  
17 which the non-Federal payments are estimated to  
18 total \$200,000,000 (at October 2006 price levels) and  
19 the amount from repaid Central Valley Project cap-  
20 ital obligations is estimated to total \$240,000,000, the  
21 additional Federal appropriation of \$250,000,000 au-  
22 thorized pursuant to subsection (b)(1), and such addi-  
23 tional funds authorized pursuant to subsection (b)(2);  
24 provided however, that the costs of implementing the  
25 provisions of section 10004(a)(1) shall be shared by  
26 the State of California pursuant to the terms of a

1 *memorandum of understanding executed by the State*  
2 *of California and the Parties to the Settlement on*  
3 *September 13, 2006, which includes at least*  
4 *\$110,000,000 of State funds.*

5 (2) *ADDITIONAL AGREEMENTS.—*

6 (A) *IN GENERAL.—The Secretary shall enter*  
7 *into 1 or more agreements to fund or implement*  
8 *improvements on a project-by-project basis with*  
9 *the State of California.*

10 (B) *REQUIREMENTS.—Any agreements en-*  
11 *tered into under subparagraph (A) shall provide*  
12 *for recognition of either monetary or in-kind*  
13 *contributions toward the State of California's*  
14 *share of the cost of implementing the provisions*  
15 *of section 10004(a)(1).*

16 (3) *LIMITATION.—Except as provided in the Set-*  
17 *tlement, to the extent that costs incurred solely to im-*  
18 *plement this Settlement would not otherwise have*  
19 *been incurred by any entity or public or local agency*  
20 *or subdivision of the State of California, such costs*  
21 *shall not be borne by any such entity, agency, or sub-*  
22 *division of the State of California, unless such costs*  
23 *are incurred on a voluntary basis.*

24 (b) *AUTHORIZATION OF APPROPRIATIONS.—*

1           (1) *IN GENERAL.*—*In addition to the funding*  
2 *provided in subsection (c), there are also authorized*  
3 *to be appropriated not to exceed \$250,000,000 (at Oc-*  
4 *tober 2006 price levels) to implement this part and*  
5 *the Settlement, to be available until expended; pro-*  
6 *vided however, that the Secretary is authorized to*  
7 *spend such additional appropriations only in*  
8 *amounts equal to the amount of funds deposited in*  
9 *the San Joaquin River Restoration Fund (not includ-*  
10 *ing payments under subsection (c)(1)(B) and proceeds*  
11 *under subsection (c)(1)(C)), the amount of in-kind*  
12 *contributions, and other non-Federal payments actu-*  
13 *ally committed to the implementation of this part or*  
14 *the Settlement.*

15           (2) *USE OF THE CENTRAL VALLEY PROJECT RES-*  
16 *TORATION FUND.*—*The Secretary is authorized to use*  
17 *monies from the Central Valley Project Restoration*  
18 *Fund created under section 3407 of the Reclamation*  
19 *Projects Authorization and Adjustment Act of 1992*  
20 *(Public Law 102–575; 106 Stat. 4727) for purposes*  
21 *of this part in an amount not to exceed \$2,000,000*  
22 *(October 2006 price levels) in any fiscal year.*

23 *(c) FUND.*—

24           (1) *IN GENERAL.*—*There is hereby established*  
25 *within the Treasury of the United States a fund, to*

1 *be known as the San Joaquin River Restoration*  
2 *Fund, into which the following funds shall be depos-*  
3 *ited and used solely for the purpose of implementing*  
4 *the Settlement except as otherwise provided in sub-*  
5 *sections (a) and (b) of section 10203:*

6 (A) *All payments received pursuant to sec-*  
7 *tion 3406(c)(1) of the Reclamation Projects Au-*  
8 *thorization and Adjustment Act of 1992 (Public*  
9 *Law 102–575; 106 Stat. 4721).*

10 (B) *The construction cost component (not*  
11 *otherwise needed to cover operation and mainte-*  
12 *nance costs) of payments made by Friant Divi-*  
13 *sion, Hidden Unit, and Buchanan Unit long-*  
14 *term contractors pursuant to long-term water*  
15 *service contracts or pursuant to repayment con-*  
16 *tracts, including repayment contracts executed*  
17 *pursuant to section 10010. The construction cost*  
18 *repayment obligation assigned such contractors*  
19 *under such contracts shall be reduced by the*  
20 *amount paid pursuant to this paragraph and*  
21 *the appropriate share of the existing Federal in-*  
22 *vestment in the Central Valley Project to be re-*  
23 *covered by the Secretary pursuant to Public Law*  
24 *99–546 (100 Stat. 3050) shall be reduced by an*  
25 *equivalent sum.*

1           (C) *Proceeds from the sale of water pursu-*  
2           *ant to the Settlement, or from the sale of prop-*  
3           *erty or interests in property as provided in sec-*  
4           *tion 10005.*

5           (D) *Any non-Federal funds, including State*  
6           *cost-sharing funds, contributed to the United*  
7           *States for implementation of the Settlement,*  
8           *which the Secretary may expend without further*  
9           *appropriation for the purposes for which contrib-*  
10          *uted.*

11          (2) *AVAILABILITY.—All funds deposited into the*  
12          *Fund pursuant to subparagraphs (A), (B), and (C) of*  
13          *paragraph (1) are authorized for appropriation to*  
14          *implement the Settlement and this part, in addition*  
15          *to the authorization provided in subsections (a) and*  
16          *(b) of section 10203, except that \$88,000,000 of such*  
17          *funds are available for expenditure without further*  
18          *appropriation; provided that after October 1, 2019,*  
19          *all funds in the Fund shall be available for expendi-*  
20          *ture without further appropriation.*

21          (d) *LIMITATION ON CONTRIBUTIONS.—Payments made*  
22          *by long-term contractors who receive water from the Friant*  
23          *Division and Hidden and Buchanan Units of the Central*  
24          *Valley Project pursuant to sections 3406(c)(1) and*  
25          *3407(d)(2) of the Reclamation Projects Authorization and*

1 *Adjustment Act of 1992 (Public Law 102–575; 106 Stat.*  
2 *4721, 4727) and payments made pursuant to paragraph*  
3 *16(b)(3) of the Settlement and subsection (c)(1)(B) shall be*  
4 *the limitation of such entities’ direct financial contribution*  
5 *to the Settlement, subject to the terms and conditions of*  
6 *paragraph 21 of the Settlement.*

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

12       *(f) REACH 4B.—*

13           *(1) STUDY.—*

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

19                           *(i) the costs of undertaking any work*  
20 *required under paragraph 11(a)(3) of the*  
21 *Settlement to increase the capacity of reach*  
22 *4B prior to reinitiation of Restoration*  
23 *Flows;*

24                           *(ii) the impacts associated with re-*  
25 *initiation of such flows; and*

1                   (iii) measures that shall be imple-  
2                   mented to mitigate impacts.

3                   (B) *DEADLINE.*—The study under subpara-  
4                   graph (A) shall be completed prior to restoration  
5                   of any flows other than Interim Flows.

6                   (2) *REPORT.*—

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

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

17                  (ii) addresses the following matters:

18                         (I) The basis for the Secretary's  
19                         determination, whether set out in envi-  
20                         ronmental review documents or other-  
21                         wise, as to whether the expansion of  
22                         Reach 4B would be the preferable  
23                         means to achieve the Restoration Goal  
24                         as provided in the Settlement, includ-  
25                         ing how different factors were assessed

1           *such as comparative biological and*  
2           *habitat benefits, comparative costs, rel-*  
3           *ative availability of State cost-sharing*  
4           *funds, and the comparative benefits*  
5           *and impacts on water temperature,*  
6           *water supply, private property, and*  
7           *local and downstream flood control.*

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

16                   (III) *The Secretary's plan for*  
17                  *funding the costs of expanding Reach*  
18                  *4B or any alternative route selected,*  
19                  *whether by existing Federal funds pro-*  
20                  *vided under this subtitle, by non-Fed-*  
21                  *eral funds, by future Federal appro-*  
22                  *priations, or some combination of such*  
23                  *sources.*

24                   (B) *DETERMINATION REQUIRED.—The Sec-*  
25                  *retary shall, to the extent feasible, make the de-*

1           *termination in subparagraph (A) prior to under-*  
2           *taking any substantial construction work to in-*  
3           *crease capacity in reach 4B.*

4           (3) *COSTS.—If the Secretary’s estimated Federal*  
5           *cost for expanding reach 4B in paragraph (2), in*  
6           *light of the Secretary’s funding plan set out in that*  
7           *paragraph, would exceed the remaining Federal fund-*  
8           *ing authorized by this part (including all funds re-*  
9           *allocated, all funds dedicated, and all new funds au-*  
10           *thorized by this part and separate from all commit-*  
11           *ments of State and other non-Federal funds and in-*  
12           *kind commitments), then before the Secretary com-*  
13           *mences actual construction work in reach 4B (other*  
14           *than planning, design, feasibility, or other prelimi-*  
15           *nary measures) to expand capacity to 4500 cubic feet*  
16           *per second to implement this Settlement, Congress*  
17           *must have increased the applicable authorization ceil-*  
18           *ing provided by this part in an amount at least suffi-*  
19           *cient to cover the higher estimated Federal costs.*

20 **SEC. 10010. REPAYMENT CONTRACTS AND ACCELERATION**  
21           **OF REPAYMENT OF CONSTRUCTION COSTS.**

22           (a) *CONVERSION OF CONTRACTS.—*

23           (1) *The Secretary is authorized and directed to*  
24           *convert, prior to December 31, 2010, all existing long-*  
25           *term contracts with the following Friant Division,*

1 *Hidden Unit, and Buchanan Unit contractors, en-*  
2 *tered under subsection (e) of section 9 of the Act of*  
3 *August 4, 1939 (53 Stat. 1196), to contracts under*  
4 *subsection (d) of section 9 of said Act (53 Stat. 1195),*  
5 *under mutually agreeable terms and conditions:*  
6 *Arvin-Edison Water Storage District; Delano-*  
7 *Earlimart Irrigation District; Exeter Irrigation Dis-*  
8 *trict; Fresno Irrigation District; Ivanhoe Irrigation*  
9 *District; Lindmore Irrigation District; Lindsay-*  
10 *Strathmore Irrigation District; Lower Tule River Ir-*  
11 *rigation District; Orange Cove Irrigation District;*  
12 *Porterville Irrigation District; Saucelito Irrigation*  
13 *District; Shafter-Wasco Irrigation District; Southern*  
14 *San Joaquin Municipal Utility District; Stone Cor-*  
15 *ral Irrigation District; Tea Pot Dome Water District;*  
16 *Terra Bella Irrigation District; Tulare Irrigation*  
17 *District; Madera Irrigation District; and Chowchilla*  
18 *Water District. Upon request of the contractor, the*  
19 *Secretary is authorized to convert, prior to December*  
20 *31, 2010, other existing long-term contracts with*  
21 *Friant Division contractors entered under subsection*  
22 *(e) of section 9 of the Act of August 4, 1939 (53 Stat.*  
23 *1196), to contracts under subsection (d) of section 9*  
24 *of said Act (53 Stat. 1195), under mutually agreeable*  
25 *terms and conditions.*

1           (2) *Upon request of the contractor, the Secretary*  
2 *is further authorized to convert, prior to December 31,*  
3 *2010, any existing Friant Division long-term con-*  
4 *tract entered under subsection (c)(2) of section 9 of*  
5 *the Act of August 4, 1939 (53 Stat. 1194), to a con-*  
6 *tract under subsection (c)(1) of section 9 of said Act,*  
7 *under mutually agreeable terms and conditions.*

8           (3) *All such contracts entered into pursuant to*  
9 *paragraph (1) shall—*

10           (A) *require the repayment, either in lump*  
11 *sum or by accelerated prepayment, of the re-*  
12 *maining amount of construction costs identified*  
13 *in the Central Valley Project Schedule of Irriga-*  
14 *tion Capital Rates by Contractor 2007 Irriga-*  
15 *tion Water Rates, dated January 25, 2007, as*  
16 *adjusted to reflect payments not reflected in such*  
17 *schedule, and properly assignable for ultimate*  
18 *return by the contractor, no later than January*  
19 *31, 2011, or if made in approximately equal an-*  
20 *nual installments, no later than January 31,*  
21 *2014; such amount to be discounted by  $\frac{1}{2}$  the*  
22 *Treasury Rate. An estimate of the remaining*  
23 *amount of construction costs as of January 31,*  
24 *2011, as adjusted, shall be provided by the Sec-*

1            *retary to each contractor no later than June 30,*  
2            *2010;*

3            *(B) require that, notwithstanding subsection*  
4            *(c)(2), construction costs or other capitalized*  
5            *costs incurred after the effective date of the con-*  
6            *tract or not reflected in the schedule referenced in*  
7            *subparagraph (A), and properly assignable to*  
8            *such contractor, shall be repaid in not more than*  
9            *5 years after notification of the allocation if such*  
10           *amount is a result of a collective annual alloca-*  
11           *tion of capital costs to the contractors exercising*  
12           *contract conversions under this subsection of less*  
13           *than \$5,000,000. If such amount is \$5,000,000*  
14           *or greater, such cost shall be repaid as provided*  
15           *by applicable Reclamation law, provided that*  
16           *the reference to the amount of \$5,000,000 shall*  
17           *not be a precedent in any other context;*

18           *(C) provide that power revenues will not be*  
19           *available to aid in repayment of construction*  
20           *costs allocated to irrigation under the contract;*  
21           *and*

22           *(D) conform to the Settlement and this part*  
23           *and shall continue so long as the contractor pays*  
24           *applicable charges, consistent with subsection*  
25           *(c)(2) and applicable law.*

1           (4) *All such contracts entered into pursuant to*  
2 *paragraph (2) shall—*

3           (A) *require the repayment in lump sum of*  
4 *the remaining amount of construction costs iden-*  
5 *tified in the most current version of the Central*  
6 *Valley Project Schedule of Municipal and Indus-*  
7 *trial Water Rates, as adjusted to reflect pay-*  
8 *ments not reflected in such schedule, and prop-*  
9 *erly assignable for ultimate return by the con-*  
10 *tractor, no later than January 31, 2014. An esti-*  
11 *mate of the remaining amount of construction*  
12 *costs as of January 31, 2014, as adjusted, shall*  
13 *be provided by the Secretary to each contractor*  
14 *no later than June 30, 2013;*

15           (B) *require that, notwithstanding subsection*  
16 *(c)(2), construction costs or other capitalized*  
17 *costs incurred after the effective date of the con-*  
18 *tract or not reflected in the schedule referenced in*  
19 *subparagraph (A), and properly assignable to*  
20 *such contractor, shall be repaid in not more than*  
21 *5 years after notification of the allocation if such*  
22 *amount is a result of a collective annual alloca-*  
23 *tion of capital costs to the contractors exercising*  
24 *contract conversions under this subsection of less*  
25 *than \$5,000,000. If such amount is \$5,000,000*

1           or greater, such cost shall be repaid as provided  
2           by applicable Reclamation law, provided that  
3           the reference to the amount of \$5,000,000 shall  
4           not be a precedent in any other context; and

5           (C) conform to the Settlement and this part  
6           and shall continue so long as the contractor pays  
7           applicable charges, consistent with subsection  
8           (c)(2) and applicable law.

9           (b) *FINAL ADJUSTMENT.*—The amounts paid pursuant  
10          to subsection (a) shall be subject to adjustment following  
11          a final cost allocation by the Secretary upon completion  
12          of the construction of the Central Valley Project. In the  
13          event that the final cost allocation indicates that the costs  
14          properly assignable to the contractor are greater than what  
15          has been paid by the contractor, the contractor shall be obli-  
16          gated to pay the remaining allocated costs. The term of such  
17          additional repayment contract shall be no less than 1 year  
18          and no more than 10 years, however, mutually agreeable  
19          provisions regarding the rate of repayment of such amount  
20          may be developed by the parties. In the event that the final  
21          cost allocation indicates that the costs properly assignable  
22          to the contractor are less than what the contractor has paid,  
23          the Secretary is authorized and directed to credit such over-  
24          payment as an offset against any outstanding or future ob-  
25          ligation of the contractor.

1       (c) *APPLICABILITY OF CERTAIN PROVISIONS.*—

2           (1) *Notwithstanding any repayment obligation*  
3 *under subsection (a)(3)(B) or subsection (b), upon a*  
4 *contractor's compliance with and discharge of the ob-*  
5 *ligation of repayment of the construction costs as pro-*  
6 *vided in subsection (a)(3)(A), the provisions of section*  
7 *213(a) and (b) of the Reclamation Reform Act of*  
8 *1982 (96 Stat. 1269) shall apply to lands in such dis-*  
9 *trict.*

10          (2) *Notwithstanding any repayment obligation*  
11 *under paragraph (3)(B) or (4)(B) of subsection (a),*  
12 *or subsection (b), upon a contractor's compliance with*  
13 *and discharge of the obligation of repayment of the*  
14 *construction costs as provided in paragraphs (3)(A)*  
15 *and (4)(A) of subsection (a), the Secretary shall waive*  
16 *the pricing provisions of section 3405(d) of the Rec-*  
17 *lamation Projects Authorization and Adjustment Act*  
18 *of 1992 (Public Law 102–575) for such contractor,*  
19 *provided that such contractor shall continue to pay*  
20 *applicable operation and maintenance costs and other*  
21 *charges applicable to such repayment contracts pursu-*  
22 *ant to the then-current rate-setting policy and appli-*  
23 *cable law.*

24          (3) *Provisions of the Settlement applying to*  
25 *Friant Division, Hidden Unit, and Buchanan Unit*

1 *long-term water service contracts shall also apply to*  
2 *contracts executed pursuant to this section.*

3 *(d) REDUCTION OF CHARGE FOR THOSE CONTRACTS*  
4 *CONVERTED PURSUANT TO SUBSECTION (A)(1).—*

5 *(1) At the time all payments by the contractor*  
6 *required by subsection (a)(3)(A) have been completed,*  
7 *the Secretary shall reduce the charge mandated in sec-*  
8 *tion 10007(1) of this part, from 2020 through 2039,*  
9 *to offset the financing costs as defined in section*  
10 *10010(d)(3). The reduction shall be calculated at the*  
11 *time all payments by the contractor required by sub-*  
12 *section (a)(3)(A) have been completed. The calculation*  
13 *shall remain fixed from 2020 through 2039 and shall*  
14 *be based upon anticipated average annual water de-*  
15 *liveries, as mutually agreed upon by the Secretary*  
16 *and the contractor, for the period from 2020 through*  
17 *2039, and the amounts of such reductions shall be dis-*  
18 *counted using the Treasury Rate; provided, that such*  
19 *charge shall not be reduced to less than \$4.00 per acre*  
20 *foot of project water delivered; provided further, that*  
21 *such reduction shall be implemented annually unless*  
22 *the Secretary determines, based on the availability of*  
23 *other monies, that the charges mandated in section*  
24 *10007(1) are otherwise needed to cover ongoing fed-*  
25 *eral costs of the Settlement, including any federal op-*

1 *eration and maintenance costs of facilities that the*  
2 *Secretary determines are needed to implement the*  
3 *Settlement. If the Secretary determines that such*  
4 *charges are necessary to cover such ongoing federal*  
5 *costs, the Secretary shall, instead of making the re-*  
6 *duction in such charges, reduce the contractor's oper-*  
7 *ation and maintenance obligation by an equivalent*  
8 *amount, and such amount shall not be recovered by*  
9 *the United States from any Central Valley Project*  
10 *contractor, provided nothing herein shall affect the ob-*  
11 *ligation of the contractor to make payments pursuant*  
12 *to a transfer agreement with a non-federal operating*  
13 *entity.*

14 *(2) If the calculated reduction in paragraph (1),*  
15 *taking into consideration the minimum amount re-*  
16 *quired, does not result in the contractor offsetting its*  
17 *financing costs, the Secretary is authorized and di-*  
18 *rected to reduce, after October 1, 2019, any out-*  
19 *standing or future obligations of the contractor to the*  
20 *Bureau of Reclamation, other than the charge assessed*  
21 *and collected under section 3407(d) of Public law*  
22 *102-575, by the amount of such deficiency, with such*  
23 *amount indexed to 2020 using the Treasury Rate and*  
24 *such amount shall not be recovered by the United*  
25 *States from any Central Valley Project contractor,*

1 *provided nothing herein shall affect the obligation of*  
2 *the contractor to make payments pursuant to a trans-*  
3 *fer agreement with a non-Federal operating entity.*

4 *(3) Financing costs, for the purposes of this sub-*  
5 *section, shall be computed as the difference of the net*  
6 *present value of the construction cost identified in*  
7 *subsection (a)(3)(A) using the full Treasury Rate as*  
8 *compared to using one half of the Treasury Rate and*  
9 *applying those rates against a calculated average an-*  
10 *nuual capital repayment through 2030.*

11 *(4) Effective in 2040, the charge shall revert to*  
12 *the amount called for in section 10007(1) of this part.*

13 *(5) For purposes of this section, “Treasury Rate”*  
14 *shall be defined as the 20 year Constant Maturity*  
15 *Treasury (CMT) rate published by the United States*  
16 *Department of the Treasury as of October 1, 2010.*

17 *(e) SATISFACTION OF CERTAIN PROVISIONS.—*

18 *(1) IN GENERAL.—Upon the first release of In-*  
19 *terim Flows or Restoration Flows, pursuant to para-*  
20 *graphs 13 or 15 of the Settlement, any short- or long-*  
21 *term agreement, to which 1 or more long-term Friant*  
22 *Division, Hidden Unit, or Buchanan Unit contractor*  
23 *that converts its contract pursuant to subsection (a)*  
24 *is a party, providing for the transfer or exchange of*  
25 *water not released as Interim Flows or Restoration*

1 *Flows shall be deemed to satisfy the provisions of sub-*  
2 *section 3405(a)(1)(A) and (I) of the Reclamation*  
3 *Projects Authorization and Adjustment Act of 1992*  
4 *(Public Law 102–575) without the further concur-*  
5 *rence of the Secretary as to compliance with said sub-*  
6 *sections if the contractor provides, not later than 90*  
7 *days before commencement of any such transfer or ex-*  
8 *change for a period in excess of 1 year, and not later*  
9 *than 30 days before commencement of any proposed*  
10 *transfer or exchange with duration of less than 1*  
11 *year, written notice to the Secretary stating how the*  
12 *proposed transfer or exchange is intended to reduce,*  
13 *avoid, or mitigate impacts to water deliveries caused*  
14 *by the Interim Flows or Restoration Flows or is in-*  
15 *tended to otherwise facilitate the Water Management*  
16 *Goal, as described in the Settlement. The Secretary*  
17 *shall promptly make such notice publicly available.*

18 (2) *DETERMINATION OF REDUCTIONS TO WATER*  
19 *DELIVERIES.—Water transferred or exchanged under*  
20 *an agreement that meets the terms of this subsection*  
21 *shall not be counted as a replacement or an offset for*  
22 *purposes of determining reductions to water deliveries*  
23 *to any Friant Division long-term contractor except as*  
24 *provided in paragraph 16(b) of the Settlement. The*  
25 *Secretary shall, at least annually, make publicly*

1     *available a compilation of the number of transfer or*  
2     *exchange agreements exercising the provisions of this*  
3     *subsection to reduce, avoid, or mitigate impacts to*  
4     *water deliveries caused by the Interim Flows or Res-*  
5     *toration Flows or to facilitate the Water Management*  
6     *Goal, as well as the volume of water transferred or ex-*  
7     *changed under such agreements.*

8             (3) *STATE LAW.—Nothing in this subsection al-*  
9     *ters State law or permit conditions, including any*  
10    *applicable geographical restrictions on the place of*  
11    *use of water transferred or exchanged pursuant to this*  
12    *subsection.*

13            (f) *CERTAIN REPAYMENT OBLIGATIONS NOT AL-*  
14    *TERED.—Implementation of the provisions of this section*  
15    *shall not alter the repayment obligation of any other long-*  
16    *term water service or repayment contractor receiving water*  
17    *from the Central Valley Project, or shift any costs that*  
18    *would otherwise have been properly assignable to the Friant*  
19    *contractors absent this section, including operations and*  
20    *maintenance costs, construction costs, or other capitalized*  
21    *costs incurred after the date of enactment of this Act, to*  
22    *other such contractors.*

23            (g) *STATUTORY INTERPRETATION.—Nothing in this*  
24    *part shall be construed to affect the right of any Friant*  
25    *Division, Hidden Unit, or Buchanan Unit long-term con-*

1 tractor to use a particular type of financing to make the  
2 payments required in paragraph (3)(A) or (4)(A) of sub-  
3 section (a).

4 **SEC. 10011. CALIFORNIA CENTRAL VALLEY SPRING RUN**  
5 **CHINOOK SALMON.**

6 (a) *FINDING.*—Congress finds that the implementation  
7 of the Settlement to resolve 18 years of contentious litigation  
8 regarding restoration of the San Joaquin River and the re-  
9 introduction of the California Central Valley Spring Run  
10 Chinook salmon is a unique and unprecedented cir-  
11 cumstance that requires clear expressions of Congressional  
12 intent regarding how the provisions of the Endangered Spe-  
13 cies Act of 1973 (16 U.S.C. 1531 et seq.) are utilized to  
14 achieve the goals of restoration of the San Joaquin River  
15 and the successful reintroduction of California Central Val-  
16 ley Spring Run Chinook salmon.

17 (b) *REINTRODUCTION IN THE SAN JOAQUIN RIVER.*—  
18 California Central Valley Spring Run Chinook salmon  
19 shall be reintroduced in the San Joaquin River below  
20 Friant Dam pursuant to section 10(j) of the Endangered  
21 Species Act of 1973 (16 U.S.C. 1539(j)) and the Settlement,  
22 provided that the Secretary of Commerce finds that a per-  
23 mit for the reintroduction of California Central Valley  
24 Spring Run Chinook salmon may be issued pursuant to sec-

1 *tion 10(a)(1)(A) of the Endangered Species Act of 1973 (16*  
2 *U.S.C. 1539(a)(1)(A)).*

3 *(c) FINAL RULE.—*

4 *(1) DEFINITION OF THIRD PARTY.—For the pur-*  
5 *pose of this subsection, the term “third party” means*  
6 *persons or entities diverting or receiving water pursu-*  
7 *ant to applicable State and Federal laws and shall*  
8 *include Central Valley Project contractors outside of*  
9 *the Friant Division of the Central Valley Project and*  
10 *the State Water Project.*

11 *(2) ISSUANCE.—The Secretary of Commerce shall*  
12 *issue a final rule pursuant to section 4(d) of the En-*  
13 *dangered Species Act of 1973 (16 U.S.C. 1533(d))*  
14 *governing the incidental take of reintroduced Cali-*  
15 *fornia Central Valley Spring Run Chinook salmon*  
16 *prior to the reintroduction.*

17 *(3) REQUIRED COMPONENTS.—The rule issued*  
18 *under paragraph (2) shall provide that the reintro-*  
19 *duction will not impose more than de minimus: water*  
20 *supply reductions, additional storage releases, or by-*  
21 *pass flows on unwilling third parties due to such re-*  
22 *introduction.*

23 *(4) APPLICABLE LAW.—Nothing in this section—*  
24 *(A) diminishes the statutory or regulatory*  
25 *protections provided in the Endangered Species*

1           *Act of 1973 for any species listed pursuant to*  
2           *section 4 of the Endangered Species Act of 1973*  
3           *(16 U.S.C. 1533) other than the reintroduced*  
4           *population of California Central Valley Spring*  
5           *Run Chinook salmon, including protections pur-*  
6           *suant to existing biological opinions or new bio-*  
7           *logical opinions issued by the Secretary or Sec-*  
8           *retary of Commerce; or*

9                     *(B) precludes the Secretary or Secretary of*  
10           *Commerce from imposing protections under the*  
11           *Endangered Species Act of 1973 (16 U.S.C. 1531*  
12           *et seq.) for other species listed pursuant to sec-*  
13           *tion 4 of that Act (16 U.S.C. 1533) because those*  
14           *protections provide incidental benefits to such re-*  
15           *introduced California Central Valley Spring*  
16           *Run Chinook salmon.*

17       *(d) REPORT.—*

18                     *(1) IN GENERAL.—Not later than December 31,*  
19           *2024, the Secretary of Commerce shall report to Con-*  
20           *gress on the progress made on the reintroduction set*  
21           *forth in this section and the Secretary’s plans for fu-*  
22           *ture implementation of this section.*

23                     *(2) INCLUSIONS.—The report under paragraph*  
24           *(1) shall include—*

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

3           (B) an evaluation of the effect, if any, of the  
4           reintroduction on the existing population of  
5           California Central Valley Spring Run Chinook  
6           salmon existing on the Sacramento River or its  
7           tributaries; and

8           (C) an assessment regarding the future of  
9           the reintroduction.

10       (e) *FERC PROJECTS.*—

11           (1) *IN GENERAL.*—With regard to California  
12           Central Valley Spring Run Chinook salmon reintro-  
13           duced pursuant to the Settlement, the Secretary of  
14           Commerce shall exercise its authority under section  
15           18 of the Federal Power Act (16 U.S.C. 811) by re-  
16           serving its right to file prescriptions in proceedings  
17           for projects licensed by the Federal Energy Regulatory  
18           Commission on the Calaveras, Stanislaus, Tuolumne,  
19           Merced, and San Joaquin rivers and otherwise con-  
20           sistent with subsection (c) until after the expiration  
21           of the term of the Settlement, December 31, 2025, or  
22           the expiration of the designation made pursuant to  
23           subsection (b), whichever ends first.

24           (2) *EFFECT OF SUBSECTION.*—Nothing in this  
25           subsection shall preclude the Secretary of Commerce

1 *from imposing prescriptions pursuant to section 18 of*  
2 *the Federal Power Act (16 U.S.C. 811) solely for other*  
3 *anadromous fish species because those prescriptions*  
4 *provide incidental benefits to such reintroduced Cali-*  
5 *fornia Central Valley Spring Run Chinook salmon.*

6 (f) *EFFECT OF SECTION.*—*Nothing in this section is*  
7 *intended or shall be construed—*

8 (1) *to modify the Endangered Species Act of*  
9 *1973 (16 U.S.C. 1531 et seq.) or the Federal Power*  
10 *Act (16 U.S.C. 791a et seq.); or*

11 (2) *to establish a precedent with respect to any*  
12 *other application of the Endangered Species Act of*  
13 *1973 (16 U.S.C. 1531 et seq.) or the Federal Power*  
14 *Act (16 U.S.C. 791a et seq.).*

15 **PART II—STUDY TO DEVELOP WATER PLAN;**

16 **REPORT**

17 **SEC. 10101. STUDY TO DEVELOP WATER PLAN; REPORT.**

18 (a) *PLAN.*—

19 (1) *GRANT.*—*To the extent that funds are made*  
20 *available in advance for this purpose, the Secretary*  
21 *of the Interior, acting through the Bureau of Rec-*  
22 *lamation, shall provide direct financial assistance to*  
23 *the California Water Institute, located at California*  
24 *State University, Fresno, California, to conduct a*  
25 *study regarding the coordination and integration of*

1 *sub-regional integrated regional water management*  
2 *plans into a unified Integrated Regional Water Man-*  
3 *agement Plan for the subject counties in the hydro-*  
4 *logic basins that would address issues related to—*

5 *(A) water quality;*

6 *(B) water supply (both surface, ground*  
7 *water banking, and brackish water desalination);*

8 *(C) water conveyance;*

9 *(D) water reliability;*

10 *(E) water conservation and efficient use (by*  
11 *distribution systems and by end users);*

12 *(F) flood control;*

13 *(G) water resource-related environmental*  
14 *enhancement; and*

15 *(H) population growth.*

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

24 *(b) USE OF PLAN.—The Integrated Regional Water*  
25 *Management Plan developed for the 2 hydrologic basins*

1 *under subsection (a) shall serve as a guide for the counties*  
2 *in the study area described in subsection (a)(2) to use as*  
3 *a mechanism to address and solve long-term water needs*  
4 *in a sustainable and equitable manner.*

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

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

16 **PART III—FRIANT DIVISION IMPROVEMENTS**

17 **SEC. 10201. FEDERAL FACILITY IMPROVEMENTS.**

18 *(a) The Secretary of the Interior (hereafter referred to*  
19 *as the “Secretary”) is authorized and directed to conduct*  
20 *feasibility studies in coordination with appropriate Fed-*  
21 *eral, State, regional, and local authorities on the following*  
22 *improvements and facilities in the Friant Division, Central*  
23 *Valley Project, California:*

24 *(1) Restoration of the capacity of the Friant-*  
25 *Kern Canal and Madera Canal to such capacity as*

1        *previously designed and constructed by the Bureau of*  
2        *Reclamation.*

3            (2) *Reverse flow pump-back facilities on the*  
4        *Friant-Kern Canal, with reverse-flow capacity of ap-*  
5        *proximately 500 cubic feet per second at the Poso and*  
6        *Shafter Check Structures and approximately 300*  
7        *cubic feet per second at the Woollomes Check Struc-*  
8        *ture.*

9            (b) *Upon completion of and consistent with the appli-*  
10       *cable feasibility studies, the Secretary is authorized to con-*  
11       *struct the improvements and facilities identified in sub-*  
12       *section (a) in accordance with all applicable Federal and*  
13       *State laws.*

14           (c) *The costs of implementing this section shall be in*  
15       *accordance with section 10203, and shall be a nonreimburs-*  
16       *able Federal expenditure.*

17        **SEC. 10202. FINANCIAL ASSISTANCE FOR LOCAL PROJECTS.**

18           (a) *AUTHORIZATION.*—*The Secretary is authorized to*  
19       *provide financial assistance to local agencies within the*  
20       *Central Valley Project, California, for the planning, design,*  
21       *environmental compliance, and construction of local facili-*  
22       *ties to bank water underground or to recharge groundwater,*  
23       *and that recover such water, provided that the project meets*  
24       *the criteria in subsection (b). The Secretary is further au-*  
25       *thorized to require that any such local agency receiving fi-*

1 *financial assistance under the terms of this section submit*  
2 *progress reports and accountings to the Secretary, as the*  
3 *Secretary deems appropriate, which such reports shall be*  
4 *publicly available.*

5 (b) *CRITERIA.*—

6 (1) *A project shall be eligible for Federal finan-*  
7 *cial assistance under subsection (a) only if all or a*  
8 *portion of the project is designed to reduce, avoid, or*  
9 *offset the quantity of the expected water supply im-*  
10 *pacts to Friant Division long-term contractors caused*  
11 *by the Interim or Restoration Flows authorized in*  
12 *part I of this subtitle, and such quantities have not*  
13 *already been reduced, avoided, or offset by other pro-*  
14 *grams or projects.*

15 (2) *Federal financial assistance shall only apply*  
16 *to the portion of a project that the local agency des-*  
17 *ignates as reducing, avoiding, or offsetting the ex-*  
18 *pected water supply impacts caused by the Interim or*  
19 *Restoration Flows authorized in part I of this sub-*  
20 *title, consistent with the methodology developed pursu-*  
21 *ant to paragraph (3)(C).*

22 (3) *No Federal financial assistance shall be pro-*  
23 *vided by the Secretary under this part for construc-*  
24 *tion of a project under subsection (a) unless the Sec-*  
25 *retary—*

1           (A) determines that appropriate planning,  
2           design, and environmental compliance activities  
3           associated with such a project have been com-  
4           pleted, and that the Secretary has been offered  
5           the opportunity to participate in the project at  
6           a price that is no higher than the local agency's  
7           own costs, in order to secure necessary storage,  
8           extraction, and conveyance rights for water that  
9           may be needed to meet the Restoration Goal as  
10          described in part I of this subtitle, where such  
11          project has capacity beyond that designated for  
12          the purposes in paragraph (2) or where it is fea-  
13          sible to expand such project to allow participa-  
14          tion by the Secretary;

15          (B) determines, based on information avail-  
16          able at the time, that the local agency has the fi-  
17          nancial capability and willingness to fund its  
18          share of the project's construction and all oper-  
19          ation and maintenance costs on an annual basis;

20          (C) determines that a method acceptable to  
21          the Secretary has been developed for quantifying  
22          the benefit, in terms of reduction, avoidance, or  
23          offset of the water supply impacts expected to be  
24          caused by the Interim or Restoration Flows au-  
25          thorized in part I of this subtitle, that will result

1           *from the project, and for ensuring appropriate*  
2           *adjustment in the recovered water account pur-*  
3           *suant to section 10004(a)(5); and*

4                     *(D) has entered into a cost-sharing agree-*  
5           *ment with the local agency which commits the*  
6           *local agency to funding its share of the project's*  
7           *construction costs on an annual basis.*

8           *(c) GUIDELINES.—Within 1 year from the date of en-*  
9           *actment of this part, the Secretary shall develop, in con-*  
10          *sultation with the Friant Division long-term contractors,*  
11          *proposed guidelines for the application of the criteria de-*  
12          *finied in subsection (b), and will make the proposed guide-*  
13          *lines available for public comment. Such guidelines may*  
14          *consider prioritizing the distribution of available funds to*  
15          *projects that provide the broadest benefit within the affected*  
16          *area and the equitable allocation of funds. Upon adoption*  
17          *of such guidelines, the Secretary shall implement such as-*  
18          *sistance program, subject to the availability of funds appro-*  
19          *priated for such purpose.*

20                  *(d) COST SHARING.—The Federal financial assistance*  
21          *provided to local agencies under subsection (a) shall not ex-*  
22          *ceed—*

23                     *(1) 50 percent of the costs associated with plan-*  
24          *ning, design, and environmental compliance activities*  
25          *associated with such a project; and*

1           (2) *50 percent of the costs associated with con-*  
2           *struction of any such project.*

3           (e) *PROJECT OWNERSHIP.—*

4           (1) *Title to, control over, and operation of,*  
5           *projects funded under subsection (a) shall remain in*  
6           *one or more non-Federal local agencies. Nothing in*  
7           *this part authorizes the Secretary to operate a*  
8           *groundwater bank along or adjacent to the San Joa-*  
9           *quin River upstream of the confluence with the*  
10          *Merced River, and any such groundwater bank shall*  
11          *be operated by a non-Federal entity. All projects*  
12          *funded pursuant to this subsection shall comply with*  
13          *all applicable Federal and State laws, including pro-*  
14          *visions of California water law.*

15          (2) *All operation, maintenance, and replacement*  
16          *and rehabilitation costs of such projects shall be the*  
17          *responsibility of the local agency. The Secretary shall*  
18          *not provide funding for any operation, maintenance,*  
19          *or replacement and rehabilitation costs of projects*  
20          *funded under subsection (a).*

21 **SEC. 10203. AUTHORIZATION OF APPROPRIATIONS.**

22          (a) *The Secretary is authorized and directed to use*  
23          *monies from the fund established under section 10009 to*  
24          *carry out the provisions of section 10201(a)(1), in an*  
25          *amount not to exceed \$35,000,000.*

1       (b) *In addition to the funds made available pursuant*  
2 *to subsection (a), the Secretary is also authorized to expend*  
3 *such additional funds from the fund established under sec-*  
4 *tion 10009 to carry out the purposes of section 10201(a)(2),*  
5 *if such facilities have not already been authorized and fund-*  
6 *ed under the plan provided for pursuant to section*  
7 *10004(a)(4), in an amount not to exceed \$17,000,000, pro-*  
8 *vided that the Secretary first determines that such expendi-*  
9 *ture will not conflict with or delay his implementation of*  
10 *actions required by part I of this subtitle. Notice of the Sec-*  
11 *retary's determination shall be published not later than his*  
12 *submission of the report to Congress required by section*  
13 *10009(f)(2).*

14       (c) *In addition to funds made available in subsections*  
15 *(a) and (b), there are authorized to be appropriated*  
16 *\$50,000,000 (October 2008 price levels) to carry out the*  
17 *purposes of this part which shall be non-reimbursable.*

18       ***Subtitle B—Northwestern New***  
19       ***Mexico Rural Water Projects***

20       ***SEC. 10301. SHORT TITLE.***

21       *This subtitle may be cited as the “Northwestern New*  
22 *Mexico Rural Water Projects Act”.*

23       ***SEC. 10302. DEFINITIONS.***

24       *In this subtitle:*

