

109TH CONGRESS
2^D SESSION

S. 4084

To authorize the implementation of the San Joaquin River Restoration Settlement.

IN THE SENATE OF THE UNITED STATES

DECEMBER 6, 2006

Mrs. FEINSTEIN (for herself and Mrs. BOXER) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To authorize the implementation of the San Joaquin River Restoration Settlement.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “San Joaquin River
5 Restoration Settlement Act”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to authorize implementa-
8 tion of the Stipulation of Settlement dated September 13,
9 2006 (referred to in this Act as the “Settlement”), in the
10 litigation entitled NATURAL RESOURCES DEFENSE

1 COUNCIL, et al. v. KIRK RODGERS, et al., United
2 States District Court, Eastern District of California, No.
3 CIV. S–88–1658–LKK/GGH.

4 **SEC. 3. DEFINITIONS.**

5 In this Act, the terms “Friant Division long-term
6 contractors”, “Interim Flows”, “Restoration Flows”, “Re-
7 covered Water Account”, “Restoration Goal”, and “Water
8 Management Goal” have the meanings given the terms in
9 the Settlement.

10 **SEC. 4. IMPLEMENTATION OF SETTLEMENT.**

11 (a) IN GENERAL.—The Secretary of the Interior (re-
12 ferred to in this Act as the “Secretary”) is hereby author-
13 ized and directed to implement the terms and conditions
14 of the Settlement in cooperation with the State of Cali-
15 fornia, including the following measures as these measures
16 are prescribed in the Settlement:

17 (1) Design and construct channel and struc-
18 tural improvements as described in paragraph 11 of
19 the Settlement, provided, however, that the Sec-
20 retary shall not make or fund any such improve-
21 ments to facilities or property of the State of Cali-
22 fornia without the approval of the State of Cali-
23 fornia and the State’s agreement in 1 or more
24 Memoranda of Understanding to participate where
25 appropriate.

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

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

8 (4) Implement the terms and conditions of
9 paragraph 16 of the Settlement related to recircula-
10 tion, recapture, reuse, exchange, or transfer of water
11 released for Restoration Flows or Interim Flows, for
12 the purpose of accomplishing the Water Manage-
13 ment Goal of the Settlement, subject to—

14 (A) applicable provisions of California
15 water law;

16 (B) the Secretary's use of Central Valley
17 Project facilities to make Project water (other
18 than water released from Friant Dam pursuant
19 to the Settlement) and water acquired through
20 transfers available to existing south-of-Delta
21 Central Valley Project contractors; and

22 (C) the Secretary's performance of the
23 Agreement of November 24, 1986, between the
24 United States of America and the Department
25 of Water Resources of the State of California

1 for the coordinated operation of the Central
2 Valley Project and the State Water Project as
3 authorized by Congress in section 2(d) of the
4 Act of August 26, 1937 (50 Stat. 850, 100
5 Stat. 3051), including any agreement to resolve
6 conflicts arising from said Agreement.

7 (5) Develop and implement the Recovered
8 Water Account as specified in paragraph 16(b) of
9 the Settlement, including the pricing and payment
10 crediting provisions described in paragraph 16(b)(3)
11 of the Settlement, provided that all other provisions
12 of Federal reclamation law shall remain applicable.

13 (b) AGREEMENTS.—

14 (1) AGREEMENTS WITH THE STATE.—In order
15 to facilitate or expedite implementation of the Settle-
16 ment, the Secretary is authorized and directed to
17 enter into appropriate agreements, including cost
18 sharing agreements, with the State of California.

19 (2) OTHER AGREEMENTS.—The Secretary is
20 authorized to enter into contracts, memoranda of
21 understanding, financial assistance agreements, cost
22 sharing agreements, and other appropriate agree-
23 ments with State, tribal, and local governmental
24 agencies, and with private parties, including agree-
25 ments related to construction, improvement, and op-

1 eration and maintenance of facilities, subject to any
2 terms and conditions that the Secretary deems nec-
3 essary to achieve the purposes of the Settlement.

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

8 (d) MITIGATION OF IMPACTS.—Prior to the imple-
9 mentation of decisions or agreements to construct, im-
10 prove, operate, or maintain facilities that the Secretary de-
11 termines are needed to implement the Settlement, the Sec-
12 retary shall identify—

13 (1) the impacts associated with such actions;
14 and

15 (2) the measures which shall be implemented to
16 mitigate impacts on adjacent and downstream water
17 users and landowners.

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

21 (f) EFFECT ON CONTRACT WATER ALLOCATIONS.—
22 Except as otherwise provided in this section, the imple-
23 mentation of the Settlement and the reintroduction of
24 California Central Valley Spring Run Chinook salmon
25 pursuant to the Settlement and section 10, shall not result

1 in the involuntary reduction in contract water allocations
 2 to Central Valley Project long-term contractors, other
 3 than Friant Division long-term contractors.

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

9 **SEC. 5. ACQUISITION AND DISPOSAL OF PROPERTY; TITLE**
 10 **TO FACILITIES.**

11 (a) TITLE TO FACILITIES.—Unless acquired pursu-
 12 ant to subsection (b), title to any facility or facilities,
 13 stream channel, levees, or other real property modified or
 14 improved in the course of implementing the Settlement au-
 15 thorized by this Act, and title to any modifications or im-
 16 provements of such facility or facilities, stream channel,
 17 levees, or other real property—

18 (1) shall remain in the owner of the property;

19 and

20 (2) shall not be transferred to the United
 21 States on account of such modifications or improve-
 22 ments.

23 (b) ACQUISITION OF PROPERTY.—

24 (1) IN GENERAL.—The Secretary is authorized
 25 to acquire through purchase from willing sellers any

1 property, interests in property, or options to acquire
2 real property needed to implement the Settlement
3 authorized by this Act.

4 (2) APPLICABLE LAW.—The Secretary is au-
5 thorized, but not required, to exercise all of the au-
6 thorities provided in section 2 of the Act of August
7 26, 1937 (50 Stat. 844, chapter 832), to carry out
8 the measures authorized in this section and section
9 4.

10 (c) DISPOSAL OF PROPERTY.—

11 (1) IN GENERAL.—Upon the Secretary's deter-
12 mination that retention of title to property or inter-
13 ests in property acquired pursuant to this Act is no
14 longer needed to be held by the United States for
15 the furtherance of the Settlement, the Secretary is
16 authorized to dispose of such property or interest in
17 property on such terms and conditions as the Sec-
18 retary deems appropriate and in the best interest of
19 the United States, including possible transfer of
20 such property to the State of California.

21 (2) RIGHT OF FIRST REFUSAL.—In the event
22 the Secretary determines that property acquired pur-
23 suant to this Act through the exercise of its eminent
24 domain authority is no longer necessary for imple-
25 mentation of the Settlement, the Secretary shall pro-

1 vide a right of first refusal to the property owner
2 from whom the property was initially acquired, or
3 his or her successor in interest, on the same terms
4 and conditions as the property is being offered to
5 other parties.

6 (3) DISPOSITION OF PROCEEDS.—Proceeds
7 from the disposal by sale or transfer of any such
8 property or interests in such property shall be depos-
9 ited in the fund established by section 9(c).

10 **SEC. 6. COMPLIANCE WITH APPLICABLE LAW.**

11 (a) APPLICABLE LAW.—

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

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

1 (b) EFFECT ON STATE LAW.—Nothing in this Act
2 shall preempt State law or modify any existing obligation
3 of the United States under Federal reclamation law to op-
4 erate the Central Valley Project in conformity with State
5 law.

6 (c) USE OF FUNDS FOR ENVIRONMENTAL RE-
7 VIEWS.—

8 (1) DEFINITION OF ENVIRONMENTAL RE-
9 VIEW.—For purposes of this subsection, the term
10 “environmental review” includes any consultation
11 and planning necessary to comply with subsection
12 (a).

13 (2) PARTICIPATION IN ENVIRONMENTAL RE-
14 VIEW PROCESS.—In undertaking the measures au-
15 thorized by section 4, and for which environmental
16 review is required, the Secretary may provide funds
17 made available under this Act to affected Federal
18 agencies, State agencies, local agencies, and Indian
19 tribes if the Secretary determines that such funds
20 are necessary to allow the Federal agencies, State
21 agencies, local agencies, or Indian tribes to effec-
22 tively participate in the environmental review proc-
23 ess.

24 (3) LIMITATION.—Funds may be provided
25 under paragraph (2) only to support activities that

1 directly contribute to the implementation of the
2 terms and conditions of the Settlement.

3 (d) NONREIMBURSABLE FUNDS.—The United
4 States' share of the costs of implementing this Act shall
5 be nonreimbursable under Federal reclamation law, pro-
6 vided that nothing in this subsection shall limit or be con-
7 strued to limit the use of the funds assessed and collected
8 pursuant to sections 3406(e)(1) and 3407(d)(2) of the
9 Reclamation Projects Authorization and Adjustment Act
10 of 1992 (Public Law 102–575; 106 Stat. 4721, 4727), for
11 implementation of the Settlement, nor shall it be con-
12 strued to limit or modify existing or future Central Valley
13 Project Ratesetting Policies.

14 **SEC. 7. COMPLIANCE WITH CENTRAL VALLEY PROJECT IM-**
15 **PROVEMENT ACT.**

16 Congress hereby finds and declares that the Settle-
17 ment satisfies and discharges all of the obligations of the
18 Secretary contained in section 3406(e)(1) of the Reclama-
19 tion Projects Authorization and Adjustment Act of 1992
20 (Public Law 102–575; 106 Stat. 4721), provided, how-
21 ever, that—

22 (1) the Secretary shall continue to assess and
23 collect the charges provided in section 3406(e)(1) of
24 the Reclamation Projects Authorization and Adjust-
25 ment Act of 1992 (Public Law 102–575; 106 Stat.

1 4721), as provided in the Settlement and section
2 9(d); and

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

8 **SEC. 8. NO PRIVATE RIGHT OF ACTION.**

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

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

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

17 (a) IMPLEMENTATION COSTS.—

18 (1) IN GENERAL.—The costs of implementing
19 the Settlement shall be covered by payments or in
20 kind contributions made by Friant Division contrac-
21 tors and other non-Federal parties, including the
22 funds provided in paragraphs (1) through (5) of
23 subsection (c), estimated to total \$440,000,000, of
24 which the non-Federal payments are estimated to
25 total \$200,000,000 (at October 2006 price levels)

1 and the amount from repaid Central Valley Project
2 capital obligations is estimated to total
3 \$240,000,000, the additional Federal appropriation
4 of \$250,000,000 authorized pursuant to subsection
5 (b)(1), and such additional funds authorized pursu-
6 ant to subsection (b)(2); provided however, that the
7 costs of implementing the provisions of section
8 4(a)(1) shall be shared by the State of California
9 pursuant to the terms of a Memorandum of Under-
10 standing executed by the State of California and the
11 Parties to the Settlement on September 13, 2006,
12 which includes at least \$110,000,000 of State funds.

13 (2) ADDITIONAL AGREEMENTS.—

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

18 (B) REQUIREMENTS.—Any agreements en-
19 tered into under subparagraph (A) shall provide
20 for recognition of either monetary or in-kind
21 contributions toward the State of California's
22 share of the cost of implementing the provisions
23 of section 4(a)(1).

24 (3) LIMITATION.—Except as provided in the
25 Settlement, to the extent that costs incurred solely

1 to implement this Settlement would not otherwise
2 have been incurred by any entity or public or local
3 agency or subdivision of the State of California, such
4 costs shall not be borne by any such entity, agency,
5 or subdivision of the State of California, unless such
6 costs are incurred on a voluntary basis.

7 (b) AUTHORIZATION OF APPROPRIATIONS.—

8 (1) IN GENERAL.—In addition to the funds pro-
9 vided in paragraphs (1) through (5) of subsection
10 (c), there are also authorized to be appropriated not
11 to exceed \$250,000,000 (at October 2006 price lev-
12 els) to implement this Act and the Settlement, to be
13 available until expended; provided however, that the
14 Secretary is authorized to spend such additional ap-
15 propriations only in amounts equal to the amount of
16 funds deposited in the Fund (not including pay-
17 ments under subsection (c)(2), proceeds under sub-
18 section (c)(3) other than an amount equal to what
19 would otherwise have been deposited under sub-
20 section (c)(1) in the absence of issuance of the bond,
21 and proceeds under subsection (c)(4)), the amount
22 of in-kind contributions, and other non-Federal pay-
23 ments actually committed to the implementation of
24 this Act or the Settlement.

1 (2) OTHER FUNDS.—The Secretary is author-
2 ized to use monies from the Fund created under sec-
3 tion 3407 of the Reclamation Projects Authorization
4 and Adjustment Act of 1992 (Public Law 102–575;
5 106 Stat. 4727) for purposes of this Act.

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

12 (1) Subject to subsection (d), at the beginning
13 of the fiscal year following enactment of this Act, all
14 payments received pursuant to section 3406(c)(1) of
15 the Reclamation Projects Authorization and Adjust-
16 ment Act of 1992 (Public Law 102–575; 106 Stat.
17 4721).

18 (2) Subject to subsection (d), the capital com-
19 ponent (not otherwise needed to cover operation and
20 maintenance costs) of payments made by Friant Di-
21 vision long-term contractors pursuant to long-term
22 water service contracts beginning the first fiscal year
23 after the date of enactment of this Act. The capital
24 repayment obligation of such contractors under such
25 contracts shall be reduced by the amount paid pur-

1 suant to this paragraph and the appropriate share
2 of the existing Federal investment in the Central
3 Valley Project to be recovered by the Secretary pur-
4 suant to Public Law 99–546 (100 Stat. 3050) shall
5 be reduced by an equivalent sum.

6 (3) Proceeds from a bond issue, federally-guar-
7 anteed loan, or other appropriate financing instru-
8 ment, to be issued or entered into by an appropriate
9 public agency or subdivision of the State of Cali-
10 fornia pursuant to subsection (d)(2).

11 (4) Proceeds from the sale of water pursuant to
12 the Settlement, or from the sale of property or inter-
13 ests in property as provided in section 5.

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

19 (d) GUARANTEED LOANS AND OTHER FINANCING
20 INSTRUMENTS.—

21 (1) IN GENERAL.—The Secretary is authorized
22 to enter into agreements with appropriate agencies
23 or subdivisions of the State of California in order to
24 facilitate a bond issue, federally-guaranteed loan, or

1 other appropriate financing instrument, for the pur-
2 pose of implementing this Settlement.

3 (2) REQUIREMENTS.—If the Secretary and an
4 appropriate agency or subdivision of the State of
5 California enter into such an agreement, and if such
6 agency or subdivision issues 1 or more revenue
7 bonds, procures a federally secured loan, or other
8 appropriate financing to fund implementation of the
9 Settlement, and if such agency deposits the proceeds
10 received from such bonds, loans, or financing into
11 the Fund pursuant to subsection (c)(3), monies
12 specified in paragraphs (1) and (2) of subsection (c)
13 shall be provided by the Friant Division long-term
14 contractors directly to such public agency or subdivi-
15 sion of the State of California to repay the bond,
16 loan or financing rather than into the Fund.

17 (3) DISPOSITION OF PAYMENTS.—After the sat-
18 isfaction of any such bond, loan, or financing, the
19 payments specified in paragraphs (1) and (2) of sub-
20 section (c) shall be paid directly into the Fund au-
21 thorized by this section.

22 (e) 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(c)(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 (f) 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 (g) 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. 10. CALIFORNIA CENTRAL VALLEY SPRING RUN CHI-**
2 **NOOK SALMON.**

3 (a) FINDING.—Congress finds that the implementa-
4 tion of the Settlement to resolve 18 years of contentious
5 litigation regarding restoration of the San Joaquin River
6 and the reintroduction of the California Central Valley
7 Spring Run Chinook salmon is a unique and unprece-
8 dented circumstance that requires clear expressions of
9 Congressional intent regarding how the provisions of the
10 Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)
11 are utilized to achieve the goals of restoration of the San
12 Joaquin River and the successful reintroduction of Cali-
13 fornia Central Valley Spring Run Chinook salmon.

14 (b) REINTRODUCTION IN THE SAN JOAQUIN
15 RIVER.—California Central Valley Spring Run Chinook
16 salmon shall be reintroduced in the San Joaquin River
17 below Friant Dam pursuant to section 10(j) of the Endan-
18 gered Species Act of 1973 (16 U.S.C. 1539(j)) and the
19 Settlement, provided that the Secretary of Commerce
20 finds that a permit for the reintroduction of California
21 Central Valley Spring Run Chinook salmon may be issued
22 pursuant to section 10(a)(1)(A) of the Endangered Spe-
23 cies Act of 1973 (16 U.S.C. 1539(a)(1)(A)).

24 (c) FINAL RULE.—

25 (1) DEFINITION OF THIRD PARTY.—For the
26 purpose of this subsection, the term “third party”

1 means persons or entities diverting or receiving
2 water pursuant to applicable State and Federal law
3 and shall include Central Valley Project contractors
4 outside of the Friant Division of the Central Valley
5 Project and the State Water Project.

6 (2) ISSUANCE.—The Secretary of Commerce
7 shall issue a final rule pursuant to section 4(d) of
8 the Endangered Species Act of 1973 (16 U.S.C.
9 1533(d)) governing the incidental take of reintro-
10 duced California Central Valley Spring Run Chinook
11 salmon prior to the reintroduction.

12 (3) REQUIRED COMPONENTS.—The rule issued
13 under paragraph (2) shall provide that the reintro-
14 duction will not impose more than de minimis: water
15 supply reductions, additional storage releases, or by-
16 pass flows on unwilling third parties due to such re-
17 introduction.

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

20 (A) diminishes the statutory or regulatory
21 protections provided in the Endangered Species
22 Act for any species listed pursuant to section 4
23 of the Endangered Species Act of 1973 (16
24 U.S.C. 1533) other than the reintroduced popu-
25 lation of California Central Valley Spring Run

1 Chinook salmon, including protections pursuant
2 to existing biological opinions or new biological
3 opinions issued by the Secretary or Secretary of
4 Commerce; or

5 (B) precludes the Secretary or Secretary of
6 Commerce from imposing protections under the
7 Endangered Species Act of 1973 (16 U.S.C.
8 1531 et seq.) for other species listed pursuant
9 to section 4 of that Act (16 U.S.C. 1533) be-
10 cause those protections provide incidental bene-
11 fits to such reintroduced California Central Val-
12 ley Spring Run Chinook salmon.

13 (d) REPORT.—

14 (1) IN GENERAL.—Not later than December 31,
15 2024, the Secretary of Commerce shall report to
16 Congress on the progress made on the reintroduction
17 set forth in this section and the Secretary’s plans for
18 future implementation of this section.

19 (2) INCLUSIONS.—The report under paragraph
20 (1) shall include—

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

23 (B) an evaluation of the effect, if any, of
24 the reintroduction on the existing population of
25 California Central Valley Spring Run Chinook

1 salmon existing on the Sacramento River or its
2 tributaries; and

3 (C) an assessment regarding the future of
4 the reintroduction.

5 (e) FERC PROJECTS.—

6 (1) IN GENERAL.—With regard to California
7 Central Valley Spring Run Chinook salmon reintro-
8 duced pursuant to the Settlement, the Secretary of
9 Commerce shall exercise its authority under section
10 18 of the Federal Power Act (16 U.S.C. 811) by re-
11 serving its right to file prescriptions in proceedings
12 for projects licensed by the Federal Energy Regu-
13 latory Commission on the Calaveras, Stanislaus,
14 Tuolumne, Merced, and San Joaquin rivers and oth-
15 erwise consistent with subsection (c) until after the
16 expiration of the term of the Settlement, December
17 31, 2025, or the expiration of the designation made
18 pursuant to subsection (b), whichever ends first.

19 (2) EFFECT OF SUBSECTION.—Nothing in this
20 subsection shall preclude the Secretary of Commerce
21 from imposing prescriptions pursuant to section 18
22 of the Federal Power Act (16 U.S.C. 811) solely for
23 other anadromous fish species because those pre-
24 scriptions provide incidental benefits to such reintro-

1 duced California Central Valley Spring Run Chinook
2 salmon.

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

5 (1) to modify the Endangered Species Act of
6 1973 (16 U.S.C. 1531 et seq.) or the Federal Power
7 Act (16 U.S.C. 791a et seq.); or

8 (2) to establish a precedent with respect to any
9 other application of the Endangered Species Act of
10 1973 (16 U.S.C. 1531 et seq.) or the Federal Power
11 Act (16 U.S.C. 791a et seq.).

○