

## The San Joaquin River Settlement

In 2006, the Friant Water Users Authority agreed with the Natural Resources Defense Council and its environmental coalition and the United States Government to settle San Joaquin River environmental litigation that had stretched 18 years and cost millions of dollars. On March 25, 2009, the House of Representatives gave final Congressional approval to an omnibus public works bill containing the legislation needed to fully authorize and implement the San Joaquin River Settlement. President Obama signed the bill into law five days later.

### Why Settlement and the legislation are so important for Friant:

- **Friant users gain assurances of water supply** and cost certainty based on Settlement caps upon water and costs. Friant districts will know nearly exactly how much water will be required each year for fishery river restoration releases, based upon how wet a year it is. Friant's "contribution" of fishery water will be about 15-20% of contract supply. The U.S. government will assume responsibility for improving the San Joaquin River and levees to accommodate restoration flows.
- **Thanks to Settlement's Water Management Goal**, means are provided to get fishery water back to Friant districts through projects the federal and state governments are to help fund.
- **Settlement provides financial certainty.** Friant users will pay no more than what is already being paid and contractors are relieved from tiered pricing.

#### Settlement includes many other provisions:

- The Legislation includes recent amendments that all Settling Parties have agreed to and call for perpetual water contracts for Friant water users, without certain Reclamation law limitations.
- There will be means to fund projects that will help recover water dedicated to the river by boosting capacity of the Friant-Kern and Madera canals, constructing pump-back systems to pick up and deliver water that is run down the river, as well as funding for water banking projects.
- Less restrictive rules for transfers of water between Friant districts will be implemented.
- Legal challenges to the Friant Division's Bureau of Reclamation supply contracts will end.

### If Settlement had failed and the case had gone back to court:

- **The same federal judge** who had ruled against Friant's arguments and interests and sided with environmentalists at virtually every opportunity over the litigation's 18-year history would decide the case. The remaining court battle would determine the amount of water the judge would order released for a salmon fishery – and Friant's experts said there could be a lot of it.
- **If Friant lost and were to appeal...** remember that the 9<sup>th</sup> Circuit Court of Appeals on all substantial points upheld the judge's earlier round of case decisions. That included rejecting Friant's argument that Congress had to approve of any fishery water released from Friant Dam. The U.S. Supreme Court would not hear Friant's further appeal.
- **Left to the Court**, Friant would again be left in the hands of a U.S. District Judge who could order water down the river – with absolutely no limits – but who could not order the river channel and levees "fixed" for fishery restoration flows. Nor would there ever be any way to recover and return water to Friant users. Permanent Reclamation contracts and relief from Reclamation law would not be possible. Friant users would lose all water supply certainty. The same tragic water supply reduction consequences on people, the economy and farms now doing so much injury on the West Side and elsewhere in California because of orders of another federal court could have begun to take a similar toll within Friant and along the valley's East Side.

### A business decision making the best of a bad situation

- **Without objection**, Friant Water Users Authority directors – all of whom are farmers themselves – repeatedly supported Settlement because they were faced with losing the federal court case, consequences of which were far worse than those the Settlement contains. Friant did not ask for this lawsuit and does not want to lose any water down the river. However, to survive, Friant acted to settle and minimize and cap its losses and have certainty for the majority of its water supply in the future.