

**SAN JOAQUIN RIVER RESTORATION PROGRAM  
RESTORATION ADMINISTRATOR  
2011 ANNUAL REPORT**



Cover Photo: Rod Meade, Restoration Administrator

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**Submitted to:  
SJRRP Settling Parties**

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## EXECUTIVE SUMMARY

The Restoration Administrator (RA) is required by the San Joaquin River Restoration Program (SJRRP) Stipulation of Settlement (Settlement) to prepare a written report assessing progress during the previous year toward achieving the SJRRP Restoration Goal. After consulting with the Technical Advisory Committee (TAC) and federal liaisons to the TAC, I am submitting my *2011 Annual Report* (Annual Report) to the Settling Parties to fulfill this responsibility. This is my fifth Annual Report.

My Annual Report provides the following information:

- summaries of SJRRP implementation activities and RA/TAC activities during 2011;
- impediments to implement the Settlement encountered during the past year;
- recommendations to remedy identified implementation impediments;
- recommended priority actions for the SJRRP and RA/TAC in 2012; and
- 2011 expenditures from the RA Account.

This Executive Summary focuses on three of those components: my assessment of implementation progress during the past year, impediments to progress observed during 2011, and my recommendations for remedying the observed implementation impediments.

### **Assessment of Progress toward Achieving the Restoration Goal During 2011**

The SJRRP achieved significant progress toward achieving the Restoration Goal during 2011. Progress during 2011 was sufficient to allow me to conclude that the SJRRP is on a course that will enable it to achieve the Settlement Restoration Goal; however, the SJRRP is behind schedule and will not be able to meet the dates for specific channel and structural improvements and other actions set forth in the Settlement. Having said this, inability of the SJRRP to meet the original dates in the Settlement's Schedule of Milestones should not be considered a precursor to failure. It will simply take longer to achieve certain Settlement milestones than predicted in 2066 when the Settlement was signed.

### **Impediments to SJRRP Implementation Progress Observed During 2011**

The scope and complexity of the technical, regulatory and political challenges that must be addressed in order to achieve the Restoration Goal and comply with the terms of the Settlement and Settlement Act are daunting. Implementation of the Settlement requires the coordinated efforts of two state and three federal agencies that comprise the Implementing Agencies. Maintaining consistent and effective communication and coordinating the actions of the five Implementing Agencies has been challenging. In spite of the best efforts of talented and hard-working agency staff, during the past year there were serious breakdowns in communication among the Implementing Agencies that impeded progress during the past year.

*Section 3* of my Annual Report discusses these observed impediments and, based on my observations, the principal impediments to progress encountered during 2011 involved communication and coordination problems among the five Implementing Agencies. These

problems were more indicative of deficiencies in the current SJRRP implementation model – the *Program Management Plan (PMP)* prepared in 2007 – than an indicator of a lack of performance by agency staff. The 2007 *PMP* was crafted prior to experiencing the realities of implementing a “live” SJRRP program that must address an array of technical and regulatory challenges and rely on five separate public agencies for implementation. The *PMP* does not provide the necessary “ground rules” for keeping the SJRRP moving when different agency or state/federal priorities and funding choices require implementation decisions that necessitate an ability on the part of the SJRRP Program Manager and/or other lead staff for agencies to quickly discuss and agree on a course of action that can address the challenges that inevitably arise during implementation of a large and complex restoration program.

While the challenges discussed in *Section 3* were significant, I continue to believe that the SJRRP is on course to achieve the Settlement Restoration Goal.

### **RA Recommendations for Addressing Implementation Impediments to Progress**

*Section 3* of my Annual Report also recommends three actions to remedy the observed communication and coordination impediments to progress observed during the past year.

First, I recommend that the SJRRP complete the Implementation Plan that has been initiated by the Implementing Agencies to provide for an updated schedule and funding program for implementation of the Settlement. Completion of the Implementation Plan should involve consultation with the non-federal Settling Parties, the RA and other affected parties.

Second, I recommend that the PMT and Agency Policy Team (APT) consult with the non-federal Settling Parties and RA to formulate measures to address gaps in the 2007 *PMP*. Modifications to the *PMP* should provide for, at a minimum, the following:

1. Conflict resolution protocols and commitments by the Implementing Agencies to facilitate engaging agency executives on the Agency Policy Team (APT) with authority to resolve agency conflicts or impasses;
2. Clearer designations of leadership and decision-making responsibilities for fishery management and reintroduction actions;
3. Processes for early identification of implementation issues and protocols for expediting elevation of problem actions to the APT to obtain guidance; and
4. An improved Program Action Tracking System, updated annually, to enable early identification by the SJRRP Program Management Team (PMT) of required improvements and actions that are in danger of falling behind the updated SJRRP schedule.

Finally, I recommend that the agency executives (the APT) commit to more frequent meetings with the PMT and as part of Executive Meetings that also include the non-federal Settling Parties and RA to provide ongoing assistance and oversight to the overall SJRRP implementation effort in a more timely and orderly fashion.

# 1. INTRODUCTION AND OVERVIEW

This *2011 Restoration Administrator Annual Report* is the fifth Annual Report prepared and submitted by me to the Settling Parties as the Restoration Administrator (RA). My previous Annual Reports were submitted in 2007, 2008, 2009 and 2010. These Annual Reports fulfill the Settlement requirement that I provide an annual written report to the Settling Parties about progress made over the previous calendar year in implementing the Stipulation of Settlement (the Settlement). During preparation of my written report I consulted with TAC members (including state agency members) and federal liaison representatives prior to finalizing and submitting the report to the Settling Parties.

## 1.1 Settlement History

In 1988, a coalition of environmental groups, led by the Natural Resources Defense Council (NRDC), filed a lawsuit challenging the renewal of the long-term water service contracts between the United States and the Central Valley Project (CVP) Friant Division contractors. After more than 18 years of litigation of this lawsuit, known as *NRDC, et al., v. Kirk Rodgers, et al.*, the Parties reached agreement on terms and conditions of a settlement. On September 13, 2006, a Stipulation of Settlement (Settlement) was signed by the Settling Parties and subsequently approved by the Court on October 23, 2006. The “Settling Parties” include the Natural Resources Defense Council (NRDC), Friant Water Users Authority (now Friant Water Authority (FWA)), and the U.S. Departments of the Interior and Commerce. On the same day the state of California signed an MOU with the Settling Parties making them SJRRP implementation partners.

The San Joaquin River Restoration Program (SJRRP) is a landmark effort. The SJRRP restoration area extends 153 miles downstream from Friant Dam to the confluence of the San Joaquin and Merced rivers. It is one of the largest river restoration projects of its kind in the country and is particularly complex because of its large scale, multiple partners and need to provide for major channel and facility improvements. The purpose is to restore river flows and natural habitat to levels capable of supporting reintroduced runs of Chinook salmon and other native fish populations. More than sixty miles of the historic mainstem of the San Joaquin River was dry in most years since the mid-1940’s because of the construction and operation of Friant Dam. In 2004 a federal court determined that the Bureau of Reclamation was in violation of California Fish and Game Code 5937 because they did not release enough water to keep fish in good condition downstream of Friant Dam.

The Secretary of the Interior (Secretary) is required to implement the terms and conditions of the Settlement. The Bureau of Reclamation on behalf of the Secretary took the lead in establishing the SJRRP to implement the Settlement. Having completed its fifth year of implementation, the SJRRP is staffed by three federal agencies and two state agencies. The federal agencies are the Bureau of Reclamation (Reclamation), the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS). The state agencies are the Department of Water Resources (DWR) and Department of Fish and Game (DFG). Collectively, these five agencies are referred to as the “Implementing Agencies” and their representative lead supervisory staff

serve on the Program Management Team (PMT) that oversees much of the implementation of the Settlement.

The Settlement establishes two primary goals: a “Restoration Goal” and a “Water Management Goal.” These goals are quoted below.

- **Restoration Goal:** *The Parties agree that a goal of this Settlement is to restore and maintain fish populations in “good condition” in the main stem of the San Joaquin River below Friant Dam to the confluence of the Merced River, including naturally reproducing and self-sustaining populations of salmon and other fish (the Restoration Goal).*
- **Water Management Goal:** *The Parties also agree that a goal of this Settlement is to reduce or avoid adverse water supply impacts to all of the Friant Division long-term contractors that may result from the Interim Flows and Restoration Flows provided for in this Settlement (the Water Management Goal).*

To assist the Secretary of the Interior during implementation of the Settlement, the Settlement calls for appointing a Restoration Administrator (RA) and for establishing a Technical Advisory Committee (TAC) to provide consultation to the RA on technical issues. The roles and specific responsibilities for the RA and TAC are specified in the Settlement. The RA is required by Paragraph 10.c of Exhibit D in the Settlement to prepare an Annual Report that assesses progress toward implementing the Restoration Goal during the previous calendar year and to submit the Annual Report to the Settling Parties by February 1 each year. Once the Annual Report is received and reviewed by the Settling Parties, the Settling Parties will submit the Annual Report to the Court, and make it available to the public and post it on the SJRRP web site.

## **1.2 Phased Implementation of the Settlement**

The Program Management Team (PMT) identified three (3) Settlement Implementation “Stages” in its 2008 SJRRP Annual Report. Each of these stages is briefly described below.

**Stage 1** of the SJRRP began in 2007 and focused on program-level “pre-flow” planning and information gathering. Stage 1 ended with the commencement of October 1, 2009, releases of Interim Flows from Friant Dam.

**Stage 2** of Settlement implementation began with the commencement of Interim Flow releases from Friant Dam on October 1, 2009. Stage 2 will end in 2014 and includes the following actions:

- Continuation of Interim Flow releases from Friant Dam through the end of 2013;
- Interim Flow monitoring and analyses;
- Initial re-introduction of spring run and fall run Chinook salmon to the San Joaquin River;
- Commencement of Restoration Flows (no later than January 1, 2014); and
- Completion of the Interim Flow Study Report by the PMT in mid-2014.



**Stage 3** will begin with the commencement of Restoration Flows on January 1, 2014. It will involve the actions necessary to achieve full implementation of Restoration Flows, completion of SJRRP construction projects and ongoing related monitoring and management activities.

### **1.3 Overview of the RA 2011 Annual Report**

The *RA 2011 Annual Report* addresses the specified topics and issues required by the Settlement, including Exhibit D. The *2011 Annual Report* is organized to address these issues in the manner described below.

- *Section 2* addresses SJRRP activities and accomplishments during 2011 and assesses progress based on tasks and work products identified by the *SJRRP Annual Report 2010* and Settlement Milestones.
- *Section 3* identifies impediments to progress toward achieving the Restoration Goal and recommended remedies.
- *Section 4* addresses my recommendations for 2012 SJRRP high-priority work tasks and products.
- *Section 5* discusses my activities and TAC activities during 2011, and identifies impediments that affected my ability to assist the Secretary of the Interior as required in the Settlement.
- *Section 6* identifies my goals and TAC goals for 2012.
- *Section 7* identifies additional measures that are not addressed by the Settlement but that I recommend to the SJRRP to enhance the prospects for achieving the Restoration Goal.
- *Section 8* provides a summary of expenditures during 2011 and remaining funding under the existing RLF Agreement with the Department of Water Resources for my support and to support the TAC.

## 2. 2011 SJRRP IMPLEMENTING AGENCY ACTIVITIES AND ASSESSMENT OF PROGRESS TOWARD ACHIEVING THE RESTORATION GOAL

This section summarizes SJRRP achievements and progress during 2011 and compares the Program progress with: (1) Settlement Milestones that were required to be achieved during 2011; and (2) anticipated activities and progress identified in the *San Joaquin River Restoration Program Annual Report 2010* (SJRRP Annual Report 2010).

In addition to discussing SJRRP achievements and progress during 2011, I want to take this opportunity to congratulate the SJRRP Team for being awarded the *2011 Partners in Conservation Award* in September by the Secretary of the Interior for outstanding achievements in conservation, collaboration, cooperation and communication. This prestigious award was reported in the *SJRRP Annual Report 2011* but special mention and commendation is warranted in my report for the Implementing Agencies, the Settling Parties and others with a role in implementing the SJRRP.

### 2.1 Summary of SJRRP Activities During 2011

A thorough discussion of SJRRP activities and accomplishments during 2011 is provided in the *San Joaquin River Restoration Program Annual Report 2011* (SJRRP Annual Report 2011). The *SJRRP Annual Report 2011* and prior SJRRP Annual Reports are available at [www.restoresjr.net](http://www.restoresjr.net). The *SJRRP Annual Report 2011* prepared by the SJRRP Team describes a broad range of technical, environmental, regulatory permitting, public outreach and consultation activities that were conducted during 2011 by the SJRRP Team (see pages 11–30, *2011 Progress and Accomplishments*).

SJRRP achievements cited in the *SJRRP Annual Report 2011* that relate to the Settlement Restoration Goal and were anticipated to be completed in 2011 are listed below.

#### 2.1.1 SJRRP Actions and Work Products Anticipated to Be Completed During 2011

According to Settlement Exhibit C (*Paragraph 11 Milestone Dates*), the only Settlement Milestones scheduled for completion either prior to or during 2011 were: (1) completion of the Draft Programmatic Environmental Impact Statement/Environmental Impact Report (Draft PEIS/R) and related compliance documents (required to be completed by September 2009); and (2) completion of Reach 4B modifications to enable routing of at least 475 cfs. It should be noted that the SJRRP made a decision, following discussions with the non-federal Settling Parties, the RA and affected landowners not to make modifications enabling 475 cfs routing in Reach 4B during 2011 as part of its consideration of strategy alternatives to achieving overall Phase 1 and Phase 2 improvements that are specified in the Settlement for Reach 4B and the Eastside Bypass/Mariposa Bypass.

In addition, the *SJRRP Annual Report 2010* (see p. 26) also identified anticipated activities that would occur during 2011, including:

- Continuing the process for experimental population designation for reintroduced Central Valley spring run Chinook salmon consistent with Public Law 111-11;
- Continuing Interim Flow releases to collect a range of information regarding river and channel characteristics, including flows, temperatures, fish needs, seepage losses, and water recirculation, recapture and reuse;
- Continuing with site-specific planning, engineering, environmental review, and other activities required to implement the actions called for in Paragraph 11(a) of the Settlement, including:
  - Reach 4B, Eastside Bypass, and Mariposa Bypass Channel Project and Structural Improvements Project
  - Mendota Pool Bypass and Reach 2B Channel Improvements Project
  - Arroyo Canal Fish Screen and Sack Dam Fish Passage Project
  - Initiating efforts on the Salt and Mud Slough Seasonal Barriers Project
- Completing environmental documents and obtain all necessary permits to continue Interim Flow releases from October 1, 2011 to September 30, 2012; and
- Completing an initial fall run Chinook salmon juvenile fish survival study.

### 2.1.2 Summary of 2011 SJRRP Actions and Work Products

The *SJRRP Annual Report 2011* (pages 10–30, *2011 Progress and Accomplishments*) describes in detail the broad range of technical work, published reports, environmental compliance, regulatory permitting, public outreach and consultation activities which were conducted during 2011 by the SJRRP Team and its consultants. The work accomplished during 2011 by the SJRRP is extensive.

The range of accomplishments and progress achieved during 2011 by the SJRRP Team included activities related to the Settlement Restoration Goal (see pages 11 and 12, *Progress and Accomplishments*):

- Released Draft Programmatic Environmental Impact Statement/Report (PEIS/R) for the SJRRP on April 21, 2011;
- Installed four temporary control gates at Sack Dam;
- Finalized a Financial Assistance Agreement in August 2011 with the Henry Miller Reclamation District for planning, environmental compliance, and design efforts for modifications to Sack Dam and the Arroyo Canal;
- Continued progress on the planning, environmental compliance and design efforts for the Mendota Pool Bypass and Reach 2B Channel Improvements Project;
- Continued progress on the planning, environmental compliance and design efforts for the Reach 4B, Eastside Bypass and Mariposa Bypass Channel and Structural Improvements Project;

- Issued a \$3 million grant to the San Joaquin River Parkway and Conservation Trust to help fulfill Reclamation's invasive vegetation monitoring and management commitments as part of the SJRRP Interim Flow project;
- Completed Water Year 2011 Interim Flow releases based on the RA recommendations to the Program Manager and conducted related monitoring and water recapture and recirculation activities;
- Released the Draft *2011 Annual Technical Report in April 2011 (ATR)* summarizing monitoring and analysis result to date;
- Submitted all required documentation for Water Year 2012 Interim Flows and initiated the Interim Flows;
- Released a Draft *Monitoring and Analysis Plan (MAP)* presenting studies, monitoring network changes and development of analytical tools scheduled for 2012 implementation of Interim Flows;
- Completed an updated *Seepage Management Plan* with coordination from landowners through a new Seepage and Conveyance Technical Feedback Group and, with the assistance of landowners worked on a process for selecting and implementing seepage projects as described the *Seepage Project Handbook* ;
- Monitored spring and fall Interim Flow releases with 23 flow gages and 29 additional locations recording river stage, 163 monitoring wells, and approximately 100 hourly temperature monitoring locations, with data incorporated into the *Annual Technical Report*; and
- Continued to monitor shallow groundwater wells to address seepage concerns and installed an additional 34 wells to expand the already-extensive groundwater monitoring network on public and private property to better understand changes in shallow groundwater conditions in response to Interim Flow releases

Although not cited in the *SJRRP Annual Report 2011* summary of Restoration Goal achievements, I believe that the SJRRP release of 1,200 juvenile fall run Chinook in two locations below Friant Dam in April 2011, followed by monitoring of their habitat use and the successful outmigration of over 40 percent of the fish past the Merced River confluence also deserves credit as a significant accomplishment.

Some of the SJRRP achievements described above relied upon recommendations provided by the RA (*i.e.*, implementing the Interim Flows) and others involved consultation with the RA (*i.e.*, preparation of the ATR and MAP documents, and achieving progress on the Reach 2B/Mendota Pool Bypass and Reach 4B/Eastside/Mariposa Bypasses projects).

In addition, other achievements identified in the *Progress and Accomplishments* section of the *SJRRP Annual Report 2011* also contributed to achieving the Restoration Goal, including (see pages 13 to 30) as noted below:

- Hills Ferry Barrier studies designed to assess the effectiveness of the barrier in preventing upstream migration of anadromous fish and false migratory pathways;

- Technical Work Group efforts, including those addressing Fisheries Management, Engineering and Design, Environmental Compliance and Permitting, Seepage and Conveyance and the Restoration Goal; and
- Public outreach efforts, particularly those efforts with landowners designed to obtain temporary access to private lands adjacent to the River for field surveys and investigations, and other public outreach efforts designed to provide information on SJRRP purposes and progress.

I encourage readers to review the complete *Progress and Accomplishments* of the *SJRRP Annual Report 2011*.

## **2.2. Assessment of SJRRP Progress during 2011 Based on Settlement Requirements**

As noted in my prior Annual Reports, it has been challenging for the SJRRP to meet the Milestone Schedule dates established by the Settlement due to the scale and complexity of actions required to be accomplished by the Settlement and the Settlement Act. Earlier this year, the SJRRP acknowledged that implementation is behind schedule in its *SJRRP Annual Report 2011* (see the discussion of *Settlement Milestones* on page 35):

*Recognizing that some actions required by the Settlement are unavoidably behind schedule, including Phase 1 channel and structural improvement projects that may be beneficial for the successful reintroduction of salmon, the Program initiated consultation with the parties to the Settlement and have been working towards a more realistic revised schedule and budget based upon the Draft PEIS/R. Once fully coordinated and agreed upon, the revised Draft Implementation Plan will be made available publicly. The document is anticipated to be available in spring 2012, and from that point forward the revised schedule and budget will be used to guide Program and project actions and activities.*

I am required by the Settlement to include an assessment of progress and impediments toward achieving the Restoration Goal and my assessment of progress must address whether the SJRRP was able to complete identified Settlement actions on the dates specified. For instance, the Settlement established the following target completion dates for specified actions:

- Paragraph 11 identified Phase 1 and 2 structural and channel improvements that are required to be completed between 2012 and 2016;
- Chinook salmon reintroduction actions are identified in Paragraph 14 that are required during 2012; and
- Exhibit C of the Settlement required completion of the programmatic environmental compliance documentation by September 2009.

Based on the summary of SJRRP progress and accomplishments identified in the *SJRRP Annual Report 2011* it is clear that significant progress was made by the SJRRP during 2011 toward achieving the Restoration Goal. The SJRRP has acknowledged that the program is behind schedule. Having said that, I believe the substantial progress achieved during 2011 demonstrated that the SJRRP still is on a course that will enable it to achieve the Settlement Restoration Goal. The fact that the Restoration Goal will be achieved pursuant to a timeline that involves

achievement of key tasks later than the dates called for by the Settlement does not serve as an indication that the SJRRP is failing; it simply means that a complex and ambitious restoration program is going to take longer to complete than the signatories to the Settlement were able to foresee in late 2006.

### **3. IMPEDIMENTS TO SJRRP IMPLEMENTATION PROGRESS AND RA RECOMMENDATIONS FOR ADDRESSING THOSE IMPEDIMENTS**

This section identifies impediments that have impacted SJRRP during 2011 and recommends actions capable of remedying the observed impediments to progress. For perspective and to provide a bridge to 2011, I begin with a review of important impediments that impacted the SJRRP prior to 2011 that were external to the SJRRP and largely beyond the control of the SJRRP. Following that brief review, I discuss the impediments to progress during the past year, including:

- Communication, coordination and leadership issues that impeded implementation progress;
- A summary of how these communication and coordination problems impacted to implementation progress; and
- Recommendation for remedying the identified impediments.

#### **3.1 Early Impediments to Implementation Progress through 2009**

A combination of factors, many outside the control of the SJRRP, impacted SJRRP implementation progress between 2006 and mid-2009. My 2009 and 2010 Annual Reports identified these external factors and it is useful to remember that these factors played a significant role in the ability of the SJRRP to achieve the original schedule of milestone dates established by the Settlement. Much, but not all, of the implementation delays experienced by the SJRRP are a result of these earlier impediments.

External impediments to implementation progress prior to 2010 included impediments outside the control of the SJRRP. For instance, there was more than a two-year delay in Congressional action on SJRRP authorizing legislation. Authorizing legislation was not signed by the President until March of 2009, more than two years after the Settlement's Paragraph 8 provision declaring that the Settlement would be voidable at the election of any Settling Party if Congressional authorization was not achieved by December 31, 2006. In addition, severe state budget conditions resulted in a hiring freeze, restrictions on staff travel and mandatory furlough days that limited the amount of time state staff could commit to the SJRRP during the early years of implementation. These impediments to progress were outside the control of the SJRRP but they contributed significantly to implementation delays that were encountered.

Other early impediments to achieving implementation progress were within the control of the SJRRP. These impediments included:

- Delays in concluding a funding agreement between NMFS and Reclamation that delayed full involvement of NMFS in collaborating other fisheries agencies during early planning for and formulation of fisheries management and reintroduction strategies and documents;

- Contractual disputes with consulting working on the draft programmatic environmental compliance documentation; and
- Unresolved flood management issues between the Bureau and the California Department of Water Resources (DWR) that caused over a half a year delay in releasing the draft documentation.

While these combined impediments did not prevent the SJRRP from achieving early target milestones, such as the Settlement requirement that Interim Flow releases would commence by October 1, 2009, they did affect the ability of the SJRRP to conduct early planning and consultation with outside interests that could have limited or prevented delays in achieving later Settlement Milestone target dates. Reviewers should consult my prior Annual Reports for additional discussion of these early impediments.

### **3.2 Communication, Coordination and Leadership Impediments to Progress**

Five state and federal agencies are designated as Implementing Agencies responsible for implementing the Settlement. These agencies must address a daunting mix of technical, regulatory, legal and political issues to achieve the Restoration Goal. Given the number of agencies responsible for SJRRP implementation and the range and complexity of challenges, it is not surprising that sustaining effective and seamless communication and coordination among the Implementing Agencies proved to be difficult during the first five years of implementation. The following discussion briefly describes the range of communication and coordination issues experienced by the SJRRP and it is followed by examples of the impacts those problems had on specific implementation actions and work products.

#### **3.2.1 Examples of Communication, Coordination and Leadership Impediments**

Examples of SJRRP communication, coordination and leadership impediments that I observed during 2011 are listed below. As you would expect, these kinds of impediments tend to be interactive, with one kind of impediment leading to or being influenced by one or more of the other impediments on the list. Based on almost five years of personal observation, I suggest that these impediments are in large part related to shortcomings in the current model that guides SJRRP implementation practices – the 2007 *Program Management Plan (PMP)*. These impediments reflect program management issues that are inadequately addressed, by the 2007 *PMP*. For instance, the *PMP* does not adequately provide for the following implementation guidance:

- Clear lines of authority and responsibility to guide supervisory lead staff for each individual agency;
- Designation of agency responsibility for completion of tasks and accountability for missed or delayed activities that contribute to impeding implementation progress;
- Protocols for the Program Manager and lead supervisory agency staff to use to resolve conflicts, differences in priorities or other issues that delay implementation; and



- A process for timely engagement of Implementing Agency executives to provide oversight and conflict resolution to address implementation impasses in a timely manner.

In addition, among the Implementing Agencies, there appears to be different levels of agency commitment and capacity to implement Settlement tasks consistent with Settlement Milestone Schedule dates. Given the limited resources common to all of the agencies, the varying degrees of commitment to the Settlement Schedule has contributed to an apparent willingness on the part of agency executives to allow the slower pace of work of a single agency on a particular issue to set implementation timing, whether or not progress is consistent with Settlement Milestone timelines.

The desire to re-evaluate program implementation effectiveness or, to put it another way, the desire to conduct a self-assessment of the current implementation strategy, has not been a priority for the Implementing Agencies during the first five years of implementation. Hopefully, my assessment of implementation progress will encourage the Implementing Agencies to consult among themselves concerning the current implementation approach and then to reach out to the non-federal Settling Parties and the RA to discuss how best to respond to these communication, coordination and leadership issues.

### 3.2.2 Work Products and Actions Impacted by Identified Implementation Impediments

How have the communication, coordination and leadership issues cited above affected implementation progress? The impacts of these impediments to progress are illustrated by delays or deficiencies related to the following tasks and implementation processes:

- Completion of the programmatic environmental compliance documentation (*e.g.*, the PEIS/R and ROD);
- Completion of fisheries management work products and actions;
- Progress toward achieving reintroduction of Chinook salmon in accordance with the Settlement target dates;
- Addressing seepage issues in Reach 4A and the Eastside Bypass prior to completion of Phase 1 and 2 structural and channel improvements;
- Addressing the need for near-term levee stability improvements prior to completion of Phase 1 and 2 structural and channel improvements;
- Construction of the Conservation Hatchery;
- Completion of the Chowchilla Bypass Viability Study;
- Preparation of an integrated schedule and funding strategy; and
- Quantifying the amount of existing floodplain habitat and assessing the amount of future floodplain habitat needed to support target Chinook populations in the Study Area.

Each of these examples is discussed below. In addition, recommended measures to address the identified concerns are provided in *Section 3.3*.

### Completion of the Programmatic Environmental Compliance Documentation (PEIS/R, and related compliance documents)

The Draft PEIS/R component of the programmatic environmental compliance documentation was completed and released for public review on April 21, 2011. While this was a significant accomplishment, the April 2011 circulation date for the Draft PEIS/R was about nineteen months later than the Settlement required completion of the Final version of the PEIS/R (September 2009). It is likely that completion of the Final PEIS/R will be delayed almost three years. Virtually all of the impediments listed in *Section 3.1* (early impediments) and *Section 3.2.1* played a role in contributing to this lengthy delay. SJRRP implementation progress has been impeded during 2010 and 2011 because the Final PEIS/R was not completed on time. Important information dealing with SJRRP alternatives, potential impacts and mitigation measures that should have been reviewed and certified as part of the public environmental compliance process was not available. This affected the ongoing planning and design of Paragraph 11 project-specific channel and structural improvements and planning preparation of the reintroduction permit application and reintroduction strategy. Another effect of the delayed PEIS/R was the need to allocate additional, unanticipated staff time during 2009, 2010 and 2011 to support three separate applications for SWRCB one-year permits.

### Agency Communication and Coordination on Fisheries Management Actions

Communication and coordination involving fisheries management actions that were discussed in my previous Annual Reports continued to impede implementation progress during 2011. The Fish Management Work Group (FMWG) was created and convened regularly to provide a venue for all fisheries agencies to address fish management issues and needs. Members of the FMWG successfully managed the preparation of the Fish Management Plan and related documents to enable reintroduction of Chinook salmon into the Upper San Joaquin River. However, there were notable breakdowns in communication, coordination and leadership during 2011, as illustrated by the following events.

- A release of adult fall run Chinook salmon at Lost Lake Park was cancelled minutes before it was scheduled to occur because federal agency executives had been incorrectly told there were no planned releases and a concern that downstream landowners had not been informed of the impending release. The 2011 Monitoring and Assessment Plan (MAP) adopted by the Implementing Agencies had included the release of adult fall run Chinook salmon to provide information about the use of spawning habitat below Friant Dam under conditions existing prior to construction of required Paragraph 11 improvements. As a result of this experience, the Implementing Agencies are paying greater attention to identifying MAP tasks so that task purposes and timing are more clearly identified.
- Although both NMFS and DFG were part of the team responsible for preparing the Draft PEIS/R, both agencies elected to submit public comments on the Draft PEIS/R reflecting unresolved issues relating to environmental compliance concerns regarding Chinook salmon reintroduction. These public comments involved concerns relating to reintroduction actions that should have been resolved among the fisheries agencies during

preparation of the Draft PEIS/R. Submission of public comments by DFG and NMFS consumed staff resources and should not have been necessary.

*Progress toward Achieving Settlement Target Dates for Required Reintroduction Actions*

Settlement Paragraph 14 requires several actions by NMFS and the USFWS relating to reintroduction of fall run and spring run Chinook salmon, including:

- USFWS submission of an application for the Section 10(a)(1)(A) Enhancement of Species Permit for the Re-Introduction of Central Valley Spring run Chinook Salmon into the San Joaquin River to NMFS by September 30, 2010;
- NMFS issuance of a permit decision on the reintroduction application for spring run Chinook salmon by April 30, 2012; and
- Reintroduction of fall run and spring run Chinook by December 31, 2012.

The agencies made significant progress toward achieving the above requirements, including USFWS submission of the Permit Application to NMFS for action on December 27, 2011.

During 2011, ongoing NMFS consultation with USFWS and DFG regarding the Section 10 permit application led to significant revisions of the initial phase of the reintroduction strategy. Based on requirements set forth in the San Joaquin River Restoration Settlement Act (Settlement Act) and the condition of spring run Chinook populations in potential donor tributaries, the fisheries agencies agreed to defer the multiple-source donor strategy in the first phase of reintroduction in favor of a single-source strategy. The initial, single-source collection strategy relies on the use of the Feather River Fish Hatchery as the sole source of donor stock for spring run Chinook. The multiple-source donor strategy remains a part of the long-term reintroduction strategy and, as conditions in potential donor stocks change in future years, there will be opportunities to collect fish from other sources.

These changes to the reintroduction approach during the first phase of reintroduction are understandable given current donor stock conditions. However, NMFS, USFWS and CDFG did not consult with other Implementing Agencies or with the non-federal Settling Parties or the RA prior to submittal of the Permit Application on December 27, 2011. It was not clear to what extent NMFS, USFWS and CDFG took into account well known concerns regarding low spring run population in time to develop collection criteria so that fish could be collected from other sources when conditions improve.

By the end of 2011, NMFS had not indicated a completion date for its Section 10 Permit Action, nor had it identified completion dates and processes for the 10(j) Rule and the 4(d) Rule and necessary NEPA documentation. As a result, considerable confusion existed among the non-fisheries parties about why and how the application was modified at the end of 2011, the strategy for reintroduction of fall run and spring run Chinook, and the timing of future actions by NMFS on the Permit Application, 4(d) and 10(j) rules, and future releases of fall run and spring run Chinook into the Study Area portion of the San Joaquin River.

In retrospect, it likely that the normal challenges associated with coordinating multiple fisheries agencies with broader SJRRP implementation may have been exacerbated by the delay in

negotiating the funding agreement between NMFS and Reclamation (see *Section 3.1*). The lack of a funding agreement delayed the full participation of NMFS in implementation efforts and limited the amount of lead time for NMFS and the other fisheries agencies to collaborate on the tasks which are to be completed during 2012.

#### *Restrictions on Interim Flow Releases and Downstream Conveyance Capacity Due to Seepage Impacts*

Seepage impacts that could impact agricultural production on lands adjacent to the San Joaquin River and Eastside Bypass were identified during groundwater monitoring efforts conducted by the SJRRP in 2010 and 2011. The effects of these potential seepage impacts were discussed in my *2010 Annual Report*. Reach 4A and in the Eastside Bypass below the confluence of Reach 4A with the Bypass are the reaches where groundwater levels are naturally high and where the greatest potential for seepage impacts to adjacent agricultural lands occur. High groundwater levels (as identified in the *Seepage Management Plan*) were measured in Reach 4A even when Interim Flows were not permitted past the Mendota Pool Dam. During 2010 Interim Flows past Sack Dam were permitted and up to 700 cfs was allowed to pass Sack Dam and continue to the confluence with the Merced River. In 2011, however, Interim Flows were not permitted past Mendota Pool Dam due to high groundwater levels in Reach 4A and continuous Interim Flows to the Merced River confluence did not occur.

The seepage issues encountered during 2010 and 2011 constrained Interim Flow releases and limited downstream flows in 2011, and have also impacted experimental fish releases and reduced the ability to gather data that could contribute to earlier and more effective Chinook salmon reintroduction efforts. The inability to provide for continuous Interim Flows from Friant Dam to the Merced River due to seepage and levee stability issues (see the following levee discussion) made the Implementing Agencies more cautious about releasing fall run Chinook and limited the amount of data that could be compiled during the experimental releases. More important, the lack of a near-term strategy for addressing seepage constraints by identifying and implementing limited near-term solutions that would allow increased Interim Flows past Sack Dam (*e.g.*, obtaining easements, license or other agreements from impacted landowners) means that the effects of the high groundwater levels in Reach 4A could impact the SJRRP ability to collect data and to re-establish continuous Interim Flows to the Merced River confluence could continue for several more years.

#### *Restrictions on Interim Flow Releases and Downstream Conveyance Capacity for Interim Flows Due to Levee Stability Issues*

DWR has identified levee stability concerns within the Study Area and, due to a lack of data, has taken a cautious approach by establishing flow thresholds such that would not exceed the elevation of the outside toe of levees, thereby acting as if the levees did not exist. This approach has not appeared to be applied on other rivers where DWR deals with flow releases in channels with levees in similar condition. While DWR does not “require” flows to be restricted to these conditions, Reclamation has applied DWR’s cautious assessments during the past year.

Levee stability issues have worked in combination with seepage issues to constrain Interim Flow releases, the downstream extent of permitted Interim Flows and the ability to conduct experimental fish releases. Levee stability issues that impeded implementation of the Interim Flow Program were identified by the SJRRP in Reach 2A, Reach 2B and the Eastside Bypass. In Reach 2A levee stability concerns have resulted in limiting flows to 1060 cfs in lower Reach 2A and in the upper end of Reach 2B levee stability concerns have resulted in limiting flows to 810 cfs. DWR has identified an additional levee stability concern in the Eastside Bypass near the confluence with Reach 4A where levee stability may also constrain Interim Flows. The Reach 2A and Reach 2B levee stability issues effectively limit the maximum Interim Flow releases from Friant Dam to about 1100 cfs during the Spring Pulse Flows, while the constraint near the confluence of Reach 4A and the Eastside Bypass could further limit the ability to allow Interim Flows past Sack Dam.

Expediting strategic identification of flow restriction locations and correction of levee stability issues should be regarded with a sense of urgency by DWR and Reclamation. Targeted levee assessments could enable temporary or long-term levee improvements to be implemented that would enable continuous Interim Flows to the confluence with the Merced River. Specifically, prioritization of limited near-term levee improvements in lower Reach 2A and upper Reach 2B could enable significantly higher Interim Flow releases from Friant Dam. Near-term levee improvements levees in these two locations would significantly improve the ability of the SJRRP to gather data during implementation of Interim Flows in the upper reaches of the river and, in concert with seepage efforts in Reach 4A described above, contribute to re-establishing continuous flows to the Merced River confluence.

#### *Delayed Construction of the Conservation Hatchery and Provision for Operations Funding*

The role of fish hatcheries in reintroducing Chinook salmon to the Upper San Joaquin River has been a subject of debate since the earliest days of the SJRRP. The TAC recommendation to the RA in 2007 called for limiting use of a conservation hatchery for a limited period during reintroduction. Others also recommended limiting the role of hatcheries as a reintroduction tool. Given conditions in the San Joaquin River, the status and availability of potential donor fish populations and Interim Flow release and downstream flow constraints, the SJRRP fisheries agencies concluded in 2009 that construction and operation of a Conservation Hatchery would be essential to enabling the SJRRP to fully achieve the Restoration Goal.

The new Conservation Hatchery will be located immediately below Friant Dam in Reach 1, adjacent to the existing DFG San Joaquin Hatchery that was built in the 1950's for production of trout. DFG is committed to constructing and operating an interim facility adjacent to the existing DFG hatchery facility. The interim facility is scheduled to be completed by June 30, 2012, and will address the need for early hatchery support for Chinook salmon reintroduction efforts in 2012 as required by the Settlement.

The *Hatchery and Genetic Management Plan (HGMP, December 17, 2010)* provided the following schedule of milestones with respect to implementation of the Conservation Hatchery:

- September 2010: Hatchery Permit applications submitted;
- Fall 2010: Interim facility begins operations with fall run Chinook salmon

- Summer 2011: Full-scale Hatchery construction begins
- Summer 2014: Full-scale Hatchery begins operation
- Spring 2016: Potential first returns of Hatchery-origin salmon
- Fall 2020: First returns from full-scale Hatchery production

The Fish Management Work Group (FMWG) has determined that captive rearing needs to commence as soon as possible. Construction of the Conservation Hatchery did not commence in 2011 as provided for by the above *HGMP* schedule and without construction of the Conservation Hatchery and a viable operations funding source, it may not be possible to fully implement the Restoration Goal. DFG funding is available for construction of the Conservation Hatchery but the state Department of General Services has required identification of a viable operational funding source in order to release state construction monies. Last year Reclamation and DFG agreed to provide funding to operate the Conservation hatchery, an example of effective coordination and cooperation among Implementing Agencies. So, while construction of the Conservation Hatchery appears to be delayed, the outlook for its construction is positive. In the meantime, the interim hatchery will provide sufficient capacity to address reintroduction needs during the initial phase.

*Studying the Viability of Reoperating the Chowchilla Bifurcation Structure to Allow Portions of Interim Flows to Be Routed Temporarily Via the Chowchilla Bypass*

In August of 2009 and again in 2010 I submitted recommendations to study to the potential benefits and impacts associated with reoperation of the Chowchilla Bifurcation Structure based on Settlement Paragraph 12 to allow Interim Flows and Restoration Flows. Based on the advice of its Solicitor, Reclamation determined that my request was not supported by Paragraph 12. So, in 2011 Reclamation consulted with me and the non-federal Settling parties on a modified project purpose and initiated a viability assessment of reoperating the Bifurcation Structure to allow a portion of the Interim Flows to be routed to the Chowchilla Bypass. The study results were not available by the end of 2011.

*Formulating an Updated and Integrated Schedule and Funding Program*

In my 2010 Annual Report I cited the need for an integrated SJRRP schedule and budget covering the to facilitate achieving the Restoration Goal in an orderly and timely manner based on the Schedule Milestone dates and using available funding. There is agreement among the Implementing Agencies on the need for an integrated schedule and funding program; however, by the end of 2011 an integrated schedule of improvements and funding was not available. However, the SJRRP is currently addressing this recommendation by preparation of their Draft *Implementation Plan* (see my earlier reference at the beginning of *Section 3*).

*Evaluating Existing Floodplain Habitat and Future Floodplain Habitat Needs*

During 2011, following repeated discussion during 2009 and 2010 among Implementing Agencies, non-federal Settling Parties and RA/TAC, all of the mentioned parties were increasingly concerned by the lack of progress toward preparing quantitative and qualitative assessments of existing floodplain habitat within the Study Area under different flow conditions and by the lack of supporting data concerning how much of various kinds of floodplain habitat

would be needed to meet the long-term target Chinook salmon populations identified by the FMWG under those same flow conditions.

Credible assessments of existing floodplain fish habitat and future needs for such habitat are needed to support both the site-specific projects required by Paragraph 11 and their related environmental compliance documents (*e.g.*, the Reach 2B/Mendota Pool Bypass and Reach 4B/Eastside and Mariposa Bypass projects). Calculating existing floodplain fish habitat availability under different flow conditions and future floodplain fish habitat needs under different flow conditions are needed so that the SJRRP will be able to: (1) assure that future floodplain fish habitat will be adequate to support target fish populations within the Study Area; and (2) that assessments of potential land impacts and need for acquisition of easements, licenses or implementation of other mitigation measures can be identified and evaluated to determine what is necessary to achieve the Restoration Goal with respect to support for target populations of Chinook salmon.

### **3.3 Recommended Measures to Address Communication, Coordination and Leadership Concerns**

Based on the preceding discussion of impediments and examples of the results of communication and coordination issues, I have two recommendations for addressing communication and coordination issues, and for enhancing the leadership provided by supervisory agency staff. These suggestions involve two courses of action: (1) completing the Implementation Plan, which should contribute to facilitating communication and coordination among the Implementing Agencies, non-federal Settling Parties and the RA; and (2) updating the *PMP* to address missing pieces and improve application of some measures included in the *PMP* that to include clearer lines of responsibility and authority for agency staff, guidance for preparing and updating functional program tracking tools, accountability for achieving Milestones and guidelines for elevating contentious issues to the Agency Program Team for more timely resolution and guidance.

#### **3.3.1 Completing the Implementation Plan Cited in the SJRRP Annual Report 2011**

The first step toward improving communication and coordination by the agencies is to complete the proposed *Implementation Plan* that is discussed in the *SJRRP Annual Report 2011* (page 35). That Report states that “. . . some actions required by the Settlement are unavoidably behind schedule . . .” and noted that “. . . the Program initiated consultations with the parties to the Settlement and have been working towards a more realistic revised schedule and budget based upon the Draft PEIS/R.

The SJRRP should expedite completion of the Draft and Final versions of the *Implementation Plan* so that a revised schedule and budget for implementing the SJRRP can be formulated and begin to be used as a foundation for SJRRP implementation. Having a schedule for achieving Settlement Milestones that is supported by the Implementing Agencies and non-federal Settling Parties would be an important first step in reducing tensions related to achieving mutually acceptable levels of progress toward achieving the Restoration Goal.

A revised schedule and integrated funding program will make it easier for PMT and staff to identify and anticipate future decision points, time needed to obtain agreement among Implementing Agencies, necessary supporting documentation, and the public and regulatory processes that will need to be navigated to obtain necessary environmental compliance and regulatory approvals for Settlement Actions.

### 3.3.2 Updating the PMP to Provide Needed Guidance and Conflict Resolution Tools

The Implementing Agencies have provided a cadre of talented, hard-working staff to implement the Settlement. Given the Settlement schedule and the lack of guidance that impacted the range of tasks and work products discussed in *Section 3.2.2*, Implementing Agency staff are doing the best they can to address the complex technical and administrative challenges in a political and legal “fishbowl” without the benefit of guidance or protocols for conflict resolution in the existing PMP.

The executive offices for the five Implementing Agencies are faced with daunting program responsibilities outside the SJRRP that compete for agency funding and staff resources and require difficult choices in terms of allocating resources. These competing outside responsibilities involve complex and high-profile programs such as the Bay Delta Conservation Program (BDCP), operating the Central Valley Project (CVP), limits imposed by severe state and federal budget conditions and a fractious political environment. These external pressures are a fact; however, each agency has agreed to implement the SJRRP consistent with the terms of the Settlement and the Settlement Act.

### 3.3.3 Filling in Missing Pieces in the PMP

The PMP was crafted prior to experiencing the complexity and pressures that a “live” program such as the SJRRP generates. The SJRRP *PMP* does not provide “ground rules” for keeping the SJRRP moving when implementation problems surface. When implementation has lagged due to coordination or communication problems, a lack of staff resources, different agency policies and priorities, different levels of commitment to the SJRRP schedule, or disagreements over technical solutions or funding responsibility, there is no protocol or process for the Program Manager or Agency Leads to rely on to assist them in addressing impasses. Staff now must rely on ineffective “pleas” for better coordination and “encouragement” to fellow agency staff to be more flexible and responsive to the specific needs that generated the impasse. The ongoing discussions involving Reclamation and DWR on levee stability is an example of an issue that should have been elevated and resolved prior to or during 2011 so that an approach to addressing levee stability issues in Reach 2, at a minimum, could be identified and implemented to enable increased Interim Flow releases from Friant Dam without having to experience a significant delay in the ability to increase Friant Dam releases while a comprehensive levee stability study by DWR is completed.

Without the tools to resolve agency conflicts or impasses, it also has been difficult to hold the Implementing Agencies, either individually or collectively, accountable for their roles in contributing to implementation delays. I recommend that the PMT and Agency Policy Team (APT), in consultation with the non-federal Settling Parties and RA, collaborate by formulating measures that would provide for, at a minimum the following *PMP* improvements:



- Conflict resolution protocols and commitments to engage directors/regional directors or their designees with authority;
- Clearer allocation of leadership and decision-making responsibilities for fisheries management and reintroduction actions;
- Process for early identification of issues that may need elevating and then protocol for expediting elevation and obtaining guidance from the directors/regional directors (Note: the PMP already acknowledges the need to elevate issues but does not provide guidance); and
- A more detailed Program Action Tracking System that would be updated to allow the PMT, Settling Parties and RA/TAC to identify early in the process any required improvements and actions that are falling behind schedule.

Finally, I recommend that the agency executives (the APT) commit to meeting more often with the PMT and in Executive Meetings involving the non-federal Settling Parties and RA to provide ongoing assistance and oversight to the overall SJRRP implementation effort. A commitment to implementation guidance would enable the thorniest problems to be identified and corrected in a more timely and orderly fashion.

#### 3.3.4 Concluding Thoughts

The current effort by the Settling Parties and Implementing Agencies to craft an Implementation Plan to integrate required Settlement Actions with funding needs appears to offer a natural opportunity for senior management of the five agencies to reopen SJRRP implementation conversations and identify ways that the *PMP* could be improved to assist the Implementing Agencies as they strive to achieve the Restoration Goal. The rate of progress toward achieving the Restoration Goal should not be controlled by any one or more of the agencies, with no identified path to rectify the lack of progress. Absent more active involvement by the APT, and without modification of the existing *PMP* implementation approach, the SJRRP could be subject to unnecessary implementation delays in the years ahead.

## **4. RECOMMENDATIONS REGARDING HIGH PRIORITY SJRRP TASKS FOR 2012**

The *SJRRP Annual Report 2011* reviewed the range of SJRRP activities expected to occur during 2012 (see pages 31-34 of the *SJRRP Annual Report 2011*). The following discussion focuses on my recommendations to the SJRRP for priority tasks and work products during 2012. A brief discussion of the reasons for designating these recommendations as “high priority” activities is provided below.

### **4.1 Complete the Programmatic Environmental Compliance Documentation**

This already is a high priority for the PMT. The inability of the SJRRP to complete the Final PEIS/R by the end of 2011 means that progress toward achieving the Restoration Goal could continue to be impeded in 2012. For instance, if the Final PEIS/R and ROD are not completed by the summer of 2012, SJRRP staff would need to complete a Supplemental Environmental Assessment (SEA) for the third year in a row to support a permit application to the SWRCB to enable Interim Flow releases to continue uninterrupted from Friant Dam after the current SWRCB permit expires on September 30, 2012. The additional SEA for 2012 would be additional work requiring staff to defer other tasks and would not be necessary if the Final PEIS/R can be finalized. Without either a Final PEIS/R by the summer of 2012, or a SEA to support review of a 2012 one-year SWRCB permit, Interim Flows would be interrupted starting October 1, 2012.

### **4.2 Complete the Implementation Plan Cited in the SJRRP Annual Report 2011**

As stated in the *SJRRP Annual Report 2011* (page 35), the Implementing Agencies have embarked on consultation with the non-federal Settling Parties on preparation and release of a Draft *Implementation Plan* for public review. As soon as possible, the Draft *Implementation Plan* should be distributed for public review and a Final version of the *Implementation Plan* should be prepared and incorporated into the SJRRP implementation process.

### **4.3 Prepare a Chinook Reintroduction Plan to Achieve 2012 Settlement Requirements by the Fisheries Agencies**

As of the end of 2011 the fisheries agencies had not prepared a reintroduction plan for Chinook salmon. Elements of a potential reintroduction plan can be found scattered among various SJRRP documents; however, there is no single document that describes a comprehensive reintroduction strategy, including methodologies and schedules, for spring run and fall run Chinook salmon. A reintroduction plan that includes these elements should be prepared in time to support initiation of Chinook reintroduction efforts in 2013.

#### **4.4 Take All Necessary Steps During 2012 to Be Able to Initiate Reintroduction of Fall Run and Spring Run Chinook Salmon in 2013 and to Initiate Spring Run Chinook Salmon at the Earliest Feasible Time**

Settlement Paragraph 14 requires the Secretary to ensure that spring and fall run Chinook salmon be reintroduced “. . . at the earliest practical date after commencement of sufficient flows and the issuance of all necessary permits.” Paragraph 14 also specifies dates for completion of the NMFS Permit Action (April 30, 2012) and requires reintroduction no later than December 31, 2012. These Settlement requirements, when read in conjunction with the Settlement Milestone schedule, make it clear that initiating reintroduction is not contingent upon completion of Paragraph 11 channel and structural improvements called for in Paragraph 11 or commencement of full restoration flows.

With the language of Paragraph 14 in mind, and recognizing that reintroduction is a “process not an event”, I recommend that the SJRRP take all necessary steps during 2012 to begin reintroducing Chinook salmon in 2013. I am recommending that two concurrent but separate strategies be used to accomplish my recommendation, consistent with the requirements of the Settlement and the Settlement Act. Because fall run Chinook are not a listed species and not burdened with the ESA and NEPA hurdles that must be addressed as part of spring run Chinook reintroduction efforts I begin with my recommendation for fall run Chinook.

##### **Recommendation 1: Initiate Fall run Chinook Reintroduction in Early 2013**

There do not appear to be technical or regulatory barriers to reintroducing fall run Chinook starting early in 2013. My recommendation in *Section 4.3* addressed the need for preparation of a reintroduction plan by the fisheries agencies. That plan should set forth the specific steps required during 2012 to enable reintroduction of fall run Chinook to commence early in 2013. Lead time is needed to have in place the resources (staff and instrumentation) to be able to be ready to implement the collection of eggs and milt (*e.g.*, either from adult fish collected at Hills Ferry barrier or from the Merced River Fish Hatchery), cultivate the eggs/milt, finalize the release strategy, install instrumentation necessary to track outmigrating Chinook. To address 2013 river flow conditions, it also would be appropriate to pre-strategize flow triggers in Reach 5 and average river temperatures to be ready to make decisions in 2013 about relying on river flows or the need to use trap and haul measures to transport fish from Reaches 1 and 2 to release points in Reach 5.

##### **Recommendation 2: Identify a Preferred Strategy for Initiating Spring run Chinook Reintroduction As Part of the Recommended Reintroduction Plan**

At this time, a number of unknowns make it difficult to recommend a specific strategy for reintroducing spring run Chinook to the San Joaquin River. During 2012, I recommend that the fisheries agencies formulate a proposed strategy for achieving reintroduction of spring run Chinook as a component of the Reintroduction Plan (see *Section 4.3*) at the earliest possible date considered to be consistent with the requirements of the Settlement and the SETTLEMENT ACT.

The Settlement requires that NMFS complete its Permit Action, the 4(d) Rule and the 10(j) Rule in 2012, prior to release of spring run Chinook be released to the river. Given the anticipated time needed to complete the Permit Action and 10(j) and 4(d) rules, and the likely time of year when these rules will be completed, it is not likely that spring run Chinook could be released during 2012. Additionally, findings and information contained in the NMFS Permit Action, NEPA documentation and final rules will need to be assessed by the fisheries agencies and the PMT prior to deciding on an appropriate strategy for initiating reintroduction of spring run Chinook.

#### **4.5 Initiate Near-Term Seepage Management Actions to Enable Continuous Interim Flows to the Confluence of the Merced River**

Appraisals to allow for easements or license agreements should be initiated immediately for three identified sites/ownerships in Reach 3 and 4A so that Interim Flows could be allowed past the Mendota Pool and Sack Dam and continuous Interim Flows from Friant Dam to the confluence with the Merced River as early as spring of 2013. Based on the 2011 *Seepage Management Plan* and work completed by the Seepage and Conveyance Technical Work Group, my understanding is that Interim Flows up to 500 cfs could be permitted past Sack Dam consistent with seepage management thresholds if easements or license agreements could be negotiated for three sites located in Reach 3 and Reach 4A. Obtaining easements or license agreements for another 6 sites in Reach 3 and Reach 4A would enable Interim Flows past Sack Dam to be increased up to 700 cfs. If easements, license agreements, or other forms of landowner consent to cover increased Interim Flows below Sack Dam could be acquired, continuous 2013 Spring Pulse Flows to the confluence with the Merced River would be achievable.

#### **4.6 Initiate Near-term Measures to Address Levee Stability in Reach 2 and the Eastside Bypass**

As discussed in *Section 3.2.2*, levee stability concerns at two locations: one in upper Reach 2B (Site 1) that now limits maximum sustained Interim Flow releases to about 1100 cfs because DWR has concluded that conveyance capacity is now 810 cfs as measured by the elevation at the toe of the levee; and a second location in lower Reach 2A, where DWR has determined that flow conveyance capacity should be maintained below 1060 cfs using similar reasoning. Based on my understanding, the current DWR intent is to complete a systematic study of levee conditions throughout the Study Area prior to identify and prioritize existing levee concerns prior to implementing any specific levee improvements. This approach appears to be unnecessarily restrictive considering the adverse effect such a strategy will have on near-term Interim Flow releases, particularly when near-term fixes to the localized levee conditions in Reach 2 could enable the SJRRP to significantly increase the Interim Flow releases from Friant Dam in the relatively near future.

Accordingly, I recommend that the DWR reconsider its current strategy for studying the need for and implementing levee improvements to enable consideration of near-term solutions for the two Reach 2 levee segments that now are impacting implementation of Interim Flows.

#### **4.7 Modify the Current PMP Approach to SJRRP Implementation**

As discussed in *Section 3.3*, I recommend a re-assessment of the current *PMP* implementation approach to provide the Program Manager and agency leads with the authority and tools to resolve differences among the Implementing Agencies. Implementing Agency executives serving on the APT should support the PMT in a review of the *PMP* and consider modifications to the implementation approach now being followed and address my recommendations for changes in *Section 3.3*.

#### **4.8 Quantify Existing Floodplain Habitat and Future Floodplain Habitat Needs**

In February 2012, the FMWG and TAC jointly hosted a workshop addressing the need to evaluate and quantify existing and future floodplain habitat needs within the Study Area. An understanding of existing and future floodplain habitat values under different flow conditions is essential to upcoming review alternative project improvements, including the alternative floodplain widths in Reach 2B, Reach 4B and the Eastside Bypass. This work product is in the process of being prepared and it needs to be completed as soon as possible to inform decisions on the Phase 1 and 2 site-specific projects noted here and in *Section 3.2.2*.

## 5. 2011 RA AND TAC ACTIVITIES AND WORK PRODUCTS

This section describes my roles and the TAC roles during implementation the Settlement. It also describes the activities and work products undertaken by me and the TAC during 2011 and impediments that we encountered during 2011 to fulfilling our responsibilities and outlines my goals for 2012. Settlement Paragraphs 9 through 19 describe my responsibilities for supporting the Secretary (or designee) during Settlement implementation. Settlement Exhibit D identifies additional responsibilities that I must address, including preparation of a written report assessing progress achieved by the SJRRP in the previous year (*i.e.*, annual reports).

### 5.1 Settlement Provisions Relating to Required RA Recommendations to the Secretary

Recommendations that I am required to provide to the Secretary include (note referenced Settlement paragraphs):

- **Paragraph 12:** Additional measures not provided for by the Settlement that may further enhance the prospects for success of achieving the Restoration Goal that are not addressed by the Settlement
- **Paragraphs 13(a) and 18, Exhibit B:** The need to provide for Buffer Flows during a particular Restoration Year.
- **Paragraphs 13(c)(1) and (c)(2);** Acquisition of additional water from willing sellers over and above Settlement Exhibit B water year allocations.
- **Paragraph 13(i):** Establishing the date for commencement of Restoration Flows (no later than January 1, 2014).
- **Paragraph 14(b) and Exhibit D:** Measures for reintroducing of spring run and fall run Chinook salmon to the Upper San Joaquin River.
- **Paragraphs 15(a) through (d) and Exhibit B:** The Program of Interim Flows designed to collect relevant information concerning flow temperatures, fish needs, seepage losses, recirculation, re-capture and re-use of water.
- **Paragraph 18:** The manner in which Restoration Flow schedule hydrographs shall be implemented and when Buffer Flows shall be needed.

#### 5.1.1 Required RA Consultation with the TAC

As outlined above, I am required to submit recommendations to the Secretary and assist the Secretary by consulting on specified actions during Settlement implementation. Whether I am making recommendations to the Secretary or commenting to the Secretary as a part of required consultations, I am required to consult with the TAC if feasible before submitting recommendations or comments. I rely on the TAC to assure that comments/recommendations

submitted to the Secretary have received appropriate technical review and discussion prior to submittal to the Secretary. The willingness of the TAC state agency members and the federal TAC liaisons to participate fully in the TAC meetings and preparation of draft TAC reports and recommendations is essential to enabling the TAC to provide effective consultation to me.

#### 5.1.2 Required Secretary Consultation with the RA

In addition to the recommendations identified in *Section 5.1.1*, the Settlement also requires that the Secretary consult with me prior to implementing the following actions concurrent with the Interim Flow Period as provided below:

- **Paragraphs 9 and 11:** Completion of Phase 1 and Phase 2 project improvements specified in Paragraph 11.
- **Paragraph 13(c)(2):** Transfer of water within an applicable hydrograph for that year.
- **Paragraph 13(e):** Temporarily increasing, reducing or discontinuing release of water called for in the Exhibit B hydrographs, and resuming releases that would have occurred in the absence of such release modifications.
- **Paragraph 14(a):** Assuring that the Secretary reintroduces Chinook salmon at the earliest possible date after commencement of sufficient flows and issuance of necessary permits.
- **Paragraph 14(b):** Recommendation(s) relating to reintroduction of Chinook salmon where the Secretary decides not to follow the RA reintroduction recommendation(s).
- **Paragraph 15(e):** Determination of existing channel capacity and impact of Interim Flows on channel construction work, for the purpose of implementing Interim Flows.
- **Paragraph 19(a):** Development of procedures for coordinating technical assistance, regulatory compliance and sharing of information with other federal or state agencies as well as with the RA and TAC.

#### **5.2 2011 RA Goals and Activities**

I am responsible for managing the TAC and engaging in a wide range of activities consistent with the terms of the Settlement. In 2011, these activities included convening TAC meetings and managing preparation of TAC work products, preparing recommendations for submittal to and consulting with the SJRRP, local and state agencies and outside interests.

#### 5.2.1 RA Goals for 2011

Consistent with the above discussion, my goals for 2011 focused on achieving the following:

- Directing, managing and facilitating the activities of TAC consistent with the terms of the Settlement;

- Preparing and submitting responses to consultation requested by the Secretary in implementing the Settlement;
- Preparing overall Interim Flow Program recommendations for 2011 and updating Interim Flow Program recommendations as appropriate, consistent with the Draft RFG;
- Preparing the *2010 RA Annual Report* for submittal to the Settling Parties and a Mid-year Report to the Resources Legacy Fund (RLF);
- Providing effective consultation to the PMT, state and local agencies;
- Consulting with the SJRRP with respect to consideration of Reach 4B flow routing options; and
- Reviewing and contributing to preparation of the 2013 Monitoring Analysis Plan and Annual Technical Report.

### 5.2.2 RA Management of TAC Activities

During 2011, I convened a total of fourteen (14) TAC meetings, including four (4) conference call/GoToMeeting web events. The dates of 2011 TAC meetings are discussed in Table 3 below. I also convened several conference calls with less than the full TAC participation to consult with the TAC and seek comments relating to:

- Interim Flow Recommendation and Interim Flow Updates;
- TAC Work Program/Strategic Plan;
- Monitoring and Management; and
- Specific project improvements considered by SJRRP Project Teams when consultation on Settlement Paragraph 11 projects was requested.

### 5.2.3 RA Reports and Recommendations to the Secretary of the Interior

In accordance with the Settlement, I consulted with the TAC to prepare and submit the following recommendations to the Secretary/SJRRP:

- 2011 Interim Flow Release Recommendations
  - March 8, 2011 – February 29, 2012 (March 7, 2011)
  - April 24, 2011 – February 29, 2012 (April 23, 2012)
  - May 11, 2011 – February 29, 2012 (May 11, 2012)
  - October 1, 2011 – February 29, 2012 (September 14, 2011)
- RA Transmittal Letter and Recommendation for 2012 Priority Monitoring and Assessment Actions (August 31, 2011)

In addition, I submitted the *2010 RA Annual Report* to the Settling Parties in July 2011 and a *2011 Mid-year Report* to RLF in August 2011.



Table 3. 2011 TAC conference call and convened meeting dates

Convened Meeting Dates	Conference Call Dates
January 13	
February - No meeting	No meeting
March 15	
April 14	
May 17	
June 8	
July 7	July 18
August 16	
	September 12
October 11	October 20
November 8 and 9 (inc. river site visits)	November 18
December 6	

#### 5.2.4 RA Consultation Activities

My consultation activities during 2011 included:

- Participation in monthly Settling Party Consultation meetings;
- Weekly conference calls with the SJRRP Program Manager (PM) to discuss Program progress, current activities and emerging or ongoing implementation issues;
- Ongoing participation, primarily via conference calls, in meetings that involved the Specific Project Teams;
- Other SJRRP meetings convened by Reclamation or other Implementing Agencies;
- Participation in select Water Management Technical Feedback Group meetings and all meetings with the Restoration Goal Technical Feedback Group and Fish Management Technical Feedback Group;
- Participation in Restoration Flow Guidelines meetings; and
- Other consultation and outreach to interests involved in or affected by implementation of the SJRRP.

These 2011 RA activities are discussed below.

### Ongoing Participation in Settling Party Consultation Meetings

I continued to participate in the monthly Consultation Meetings at the invitation of the Settling Parties. These meetings addressed policy, funding, coordination and consultation issues confronted during implementation of the Settlement. In addition, as part of an effort to ensure that consultation between me and the Implementation Agencies met the requirements of the Settlement, I initiated discussions with the Settling Parties to address ongoing consultation issues.

### Ongoing Consultation with the PMT and Agencies

During 2011 I regularly consulted with the SJRRP Program Manager (PM), other individual PMT staff on an individual basis and with the Specific Project Teams assigned to manage the site-specific projects identified in Paragraph 11 of the Settlement. My consultation in this category included:

- Weekly conference calls with the PM to coordinate RA/TAC/PMT activities and improve RA/TAC awareness of current and emerging implementation issues;
- Participation in bi-weekly Project Team meetings involving implementation of SJRRP improvement projects identified in Paragraph 11 of the Settlement, including
  - Reach 2B and the Mendota Pool Bypass meetings; and
  - Reach 4B/Eastside Bypass/Mariposa Bypass meetings.
- Participation in many of the bi-weekly Environmental Compliance Work Group meetings (schedule conflicts prevented participation in all meetings);
- Participation in a few of the Water Management Goal Technical Feedback Group (WMGTFG) meetings, with a briefing to update the WMGTFG group on June 16, 2011, to explain the objectives underlying my 2011 Interim Flow Program recommendations;
- Participation as available by phone in the Seepage and Conveyance Technical Feedback Group meetings;
- Participation in Scoping Meetings conducted by the PMT staff for the project-specific EIS/R documents relating to Reach 2B/Mendota Pool Bypass and Reach 4B projects;
- Participation in weekly conference calls involving Mendota Pool and Friant Dam operators to coordinate Interim Flows;
- Participation in weekly conference calls addressing Interim Flow Scheduling and agency monitoring activities to improve coordination/communication among agencies and the RA and TAC concerning implementation of Interim Flows; and
- Periodic consultation with individual PMT staff on specific technical issues.

### RA Participation in SJRRP Technical Work Group Meetings

During 2011 I participated in the following SJRRP Technical Work Group meetings on the dates identified and I often was accompanied by one or more TAC members (Table 4).

Table 4. 2011 SJRRP Technical Work Group meetings

Technical Work Groups/Meeting	Date(s)
Restoration Flow Guideline Meetings	February 1 and October 26
Fish Management Technical Feedback Group Mtg	May 17 and September 29
Restoration Goal Technical Feedback Group Mtg	April 21, July 7 and November 1
Seepage Management Technical Feedback Mtg	January 14, March 23
Water Management Technical Feedback Mtg	June 17
Reach 2B meeting	February 18
Monitoring and Analysis Plan meeting	September 8

Ongoing Consultation with Outside Organizations

During 2011 I consulted with the following groups/organizations that are either impacted by or interested in the implementation of the SJRRP:

- Resource Management Coalition (RMC) – The RMC is a coalition of downstream landowners and water agencies that conduct their Board Meeting at the end of most months in Los Banos. I attended Board Meetings by phone or in person when events indicated a need to provide briefings on the status of RA recommendations that were being formulated but not yet transmitted to the Secretary.
- San Joaquin River Partnership (River Partnership) – The River Partnership was created in 2010 by a coalition of non-profit organizations interested and involved in efforts to restore the San Joaquin River and to enhance public access to, use and enjoyment of the San Joaquin River. The River Partnership seeks to improve cooperation and coordination among its separate organizations and to identify ways that they can assist agency and other efforts to restore the San Joaquin River.

In addition, I presented papers at two major fisheries management conferences:

- California Salmon Restoration Federation (SRF) Conference – In March I attended the Annual SRF Conference in San Luis Obispo to present a paper describing the SJRRP and RA and TAC roles in the Program, including discussion of Chinook salmon reintroduction efforts.
- American Fisheries Society (AFS) Annual Meeting in Seattle – In early September I presented paper to the AFSs describing SJRRP program and the unique role of the RA and TAC during implementation of the SJRRP.

### 5.2.5 Technical Studies Implemented by the RA and TAC

My budget, as provided for by the Memorandum between RLF and DWR/DFG during 2011, provided for \$40,000 to enable me to pursue Technical Studies that would contribute to achieving the Restoration Goal but that could or would not be funded by or conducted by the SJRRP team or its consultants, or by TAC members. In 2011, flood control releases began in January, and occurred sporadically through July, with peak flows exceeding 8,000 cfs. With input from the TAC, I decided to take advantage of data collection opportunities to conduct bedload sampling approximately 3 miles downstream of Friant Dam. I requested RLF to enter into a contract with Graham Mathews and Associates (GMA) to conduct bedload sampling during the high flow events. GMA conducted two sampling trips, collected a total of 18 data points, and provided a technical memorandum summarizing methods and results to the SJRRP in June 2011. This data has been useful in evaluating sand and spawning gravel transport in the primary Chinook salmon spawning area below Friant Dam. The bedload sampling effort was the only study that required use of the funding available in the Technical Studies component of my budget.

### 5.2.6 RA Goals that Were Achieved During 2011

My activities during 2011 demonstrated some progress in my efforts to assist the Secretary to achieve the Restoration Goal.

#### RA Management of TAC activities

I convened the TAC for fourteen (14) meetings during 2011 (Table 3). I also managed TAC efforts to assist me in preparation of the work products identified in *Section 5.2.3* prior to submitting recommendations to the Secretary.

#### Consultation with the Program Manager and Reclamation Staff

To the extent permitted by the Implementing Agencies, the RA/TAC consulted with the SJRRP Implementing Agencies. A significant achievement during 2011 was improved consultation between the RA/TAC and the Bureau of Reclamation, and with the site-specific Project Teams for the Reach 2B, Reach 4B and Arroyo Canal improvement projects. As discussed below, consultation with other Implementing Agencies improved, but did not match the level of consultation achieved with Reclamation.

As the Implementing Agency with the principal responsibility for managing implementation of the SJRRP, Reclamation staff provided a variety of opportunities for me and the TAC to be briefed on emerging issues, participate in agency/consultant meetings convened by Reclamation and provide early consultation on technical issues. In addition to the public Technical Work Group meetings that I and the TAC attended, other areas where Reclamation increased access and opportunities for early RA/TAC consultation included invitations to participate in:

- Preparation of the Draft Restoration Flow Guidelines;
- Participation in the Water Management Group meetings;

- Participation in the Seepage and Conveyance Technical Work Group;
- Participation in the Reach 2B/Mendota Pool Bypass and Reach 4B/Eastside Bypass Project Team meetings;
- Consultation with the Arroyo Canal/Sack Dam Project Team;
- Weekly Interim Flow Scheduling and Agency Monitoring conference calls; and
- Preparation of the Draft ATR and MAP documents.

Although not all of my concerns with respect to agency/RA consultation issues were resolved by the Program Manager and the RA (see the discussion of “Impediments” in *Section 4.5.1*), the improvements in consultation were significant. Reclamation continues to explore additional opportunities for early consultation with the RA/TAC, and has encouraged the RA to expand consultation and coordination with other Implementing Agencies.

#### RA Interim Flow Recommendation for March 1, 2011 through February 29, 2012

My recommendations for the 2011 Interim Flow Program covered the entire period from March 1, 2011 through February 29, 2012, and were submitted to the Secretary on March 7, 2011. In addition, changes in hydrology during the spring months warranted updated RA release flow recommendations (see *Section 5.3.2*) that were approved for implementation by Reclamation.

#### RA Submittal of the 2010 Annual Report to the Settling Parties and the Mid-year Report to RLF

The *2010 RA Annual Report* was submitted to the Settling Parties in July 2011 and the Mid-year Report was submitted to RLF in August 2011.

#### 5.2.7 RA Goals that Were Not Fully Achieved During 2011

Specific areas where I either did not achieve a primary goal or where I was only partially successful in achieving a goal are discussed below.

#### FMWG Consultation with the RA

Despite the improvements in consultation and communication between the RA/TAC and Reclamation, and despite considerable effort involving the non-federal Settling Parties, Program Manager, me and others during 2011, the ability of the RA/TAC to consult with the FMWG early on technical issues relating to the Fish Management Plan and fisheries management issues in general lagged during 2011 (see the discussion in *Section 5.4.1*).

#### Full TAC Membership and Productivity

The TAC operated during most of 2011 with only four of the six appointed members. Dr. Rene Henery, a fisheries expert employed by Trout Unlimited was appointed to the TAC in September to become the fifth TAC member. The sixth TAC position remained vacant during 2011. The lack of a full complement of appointed TAC members, combined with the limited time availability of other TAC members, reduced my ability to undertake technical analyses and provide technical consultation to the SJRRP during 2011.

### 5.3 2011 TAC Activities

The TAC consulted and supported me during 2011 in the following ways. The 2011 appointed TAC members included:

- Bill Luce (appointed by Friant)
- Monty Schmitt (appointed by NRDC)
- Rene Henery (Fisheries – appointed by NRDC, September 2011)
- Chuck Hanson (Fisheries – appointed by Friant)
- Scott McBain (Hydrology/Fluvial Geomorphology – joint Friant/NRDC appointment)
- Vacancy – a joint Friant/NRDC appointment

The 2011 state agency TAC Members included:

- Kevin Faulkenberry – Representing the California Department of Water Resources
- Gerald Hatler – Representing the California Department of Fish and Game

The 2011 non-member “federal liaison” representatives on the TAC included:

- Alicia Forsythe – SJRRP Program Manager, Bureau of Reclamation
- Rhonda Reed – National Marine Fisheries Service (NOAA)
- John Netto – U. S. Fish and Wildlife Service

#### 5.3.1 TAC Meetings

As noted in *Section 5.2.2* the TAC met a total of fourteen (14) times during 2011 (Table 3). These meetings included ten (10) meetings in person and four (4) conference call/GoToMeeting events. The TAC meetings were convened on a rotating basis in Sacramento, Turlock (CSU Stanislaus), Fresno and San Francisco in an effort to share the traveling burden for TAC members and liaisons. In addition to convening the TAC for the meetings identified above, I worked on a direct basis with individual TAC members on a variety of specific issues related to topics that were being considered as part of the TAC meetings and so that I could obtain technical support for our collective participation in technical work group meetings. My consultation with the SJRPP on other activities and meetings were identified in *Section 5.2.4*.

#### 5.3.2 TAC Preparation of Recommendations to the RA

During 2011 the TAC prepared and submitted the following reports and recommendations to me:

- 2011 Interim Flow recommendations and Interim Flow update recommendations;
- An updated 2011 TAC Strategic Plan in March for spring and summer 2011 TAC activities;
- Suggested high flow data gathering opportunities for Reach 2A and Chowchilla Bypass due to flood control releases in January;
- Comments on the 2012 Monitoring and Analysis Plan, Reach 2B alternatives, Mendota Bypass options, and sand supply report;
- Updated TAC Recommendations re: *Priority Information Needs* in September; and

- Provided monitoring recommendations to the RA for 2012.

In addition, I consulted with the TAC prior to and as part of my finalizing all of my recommendations to the Secretary concerning the Interim Flow Program, studying the reoperation of the Chowchilla Bifurcation Structure, publishing the *2010 RA Annual Report* submitted to the Settling Parties and the 2011 Mid-year Report submitted to RLF.

### 5.3.3 TAC Participation in Technical Feedback Group Meetings

Individual appointed TAC members participated in several of the Technical Work Group and Technical Feedback Group meetings during 2011. Table 4 in *Section 5.2.4* identifies the meetings and dates when these technical meetings occurred. In most instances, at least two and often 3 appointed TAC members were in attendance at these meetings. The exception to this general statement would be the Seepage Management Technical Feedback meetings, where TAC members usually did not participate.

## **5.4 Impediments to the Ability of the RA to Assist the Secretary**

Factors that impeded my ability to assist the Secretary during implementation of the Settlement in the manner set forth in the Settlement are discussed below.

### 5.4.1 Continued Implementing Agency Restrictions on Consultation with the RA and TAC

As noted in *Section 5.2.6*, consultation involving the Program Manager and Reclamation staff with the RA and TAC was excellent during 2011, with regular invitations to me and individual TAC members to participate in technical meetings convened by Reclamation staff.

However, I was still working to improve consultation options with the FMWG and to have access to technical discussions conducted by the FMWG prior to work products becoming available for public review. Late in 2011, the FMWG started to invite individual TAC fish experts to participate in a limited portion of their bi-weekly meetings; however, these brief “windows” during the overall FMWG meetings provided limited opportunities to discuss emerging information and were primarily offered by the FMWG as an opportunity for TAC members to raise areas of concern rather than to have the FMWG convey information to the TAC members.

### 5.4.2 Agency Participation in TAC Meetings and Consultation on TAC Work Products

Implementing Agency participation in TAC meetings improved during 2011. Changes that I initiated relating to TAC meeting agendas in response to 2010 Implementing Agency comments resulted in increased participation in TAC meetings by agency representatives that previously had been less involved. The TAC meeting changes I made included minimizing agency update reports, general “process” and Settlement discussions that tended to arise during meetings but that did not focus on technical issues. TAC meetings in 2011 focused more on technical discussions with more time devoted to technical questions that arose at during TAC meetings. In

addition, the fish agencies helped to improve communication by assigning representatives to the TAC that also serve on the FMWG, meaning that agency representatives at the TAC now have direct knowledge about current topics being discussed at the FMWG meetings.

While those changes improved agency participation in the TAC meetings, a number of factors continue to affect agency participation and consultation, including:

- The ongoing impact that the state budget crisis and general SJRRP workload have on DFG and DWR ability to attend TAC meetings in person; and
- The continuing reluctance by FMWG participants to share staff information and insights on technical issues prior to achieving a consensus FMWG position on technical issues.

These issues will continue to be addressed in 2012.



## 6. 2012 RA AND TAC GOALS

In 2012 the RA intends to focus on a limited number of priority goals and actions to assist the Secretary in implementing the Settlement.

My high priority goals for 2012 include:

- Effectively managing TAC activities;
- Providing timely RA recommendations for implementing the Interim Flow releases during the remainder of the 2012 Water Year, including;
  - Preparing RA recommendations for the 2012 Interim Flow releases in accordance with the Settlement and SJRRP needs for updated recommendations;
  - Implementing real-time Interim Flow management in an attempt to achieve quantitative management targets in downstream Reaches;
- Restoring the full technical support capacity of the TAC by supporting Settling Party efforts to fill the existing TAC vacancy;
- Assisting the PMT to prepare a Chinook Salmon Reintroduction Plan;
- Encouraging and assisting NMFS and the Implementing Agencies to take all actions necessary to commence reintroduction of Chinook salmon concurrent with the 2013 Spring Pulse Flows; and
- Providing monitoring and study recommendations to Reclamation for use during preparation of the Draft ATR and 2013 MAP documents.

My other goals for 2012 include:

- Providing timely consultation and recommendations to the PMT and Secretary during implementation of the Settlement where my consultation is needed;
- Improving my ability to provide technical consultation and recommendations to the Secretary by continuing work with Reclamation and enhancing opportunities to consult with the fisheries management agencies and the FMWG;
- Continuing my participation in the SJRRP Project Team meetings to stay current with SJRRP activities/progress and, where feasible, provide early input to the SJRRP staff concerning emerging issues;
- Continuing TAC and my participation in SJRRP public Technical Feedback Group meetings and encourage SJRRP staff to provide more frequent technical feedback opportunities;
- Consulting with the SJRRP during completion of the viability study for reoperating the Chowchilla Bifurcation Structure; and
- Continuing my consultation, as appropriate and productive, with local agencies, state and federal agencies, downstream landowners and water managers, and public interest

organizations to assist the SJRRP in facilitating stakeholder and public understanding of the SJRRP program.

The 2012 TAC goals include:

- Providing consultation and technical support to me as I provide assistance to the PMT;
- Increasing participation of individual TAC member in site-specific project Team meetings to provide appropriate technical assistance and comments;
- Increasing ability of TAC fisheries experts to consult with the FMWG on reintroduction and fish management issues;
- Providing recommendations to me for refining the Reintroduction Plan;
- Evaluating past Interim Flow Program management by initiating a gaming exercise to review Interim Flow hydrographs for 2010 to 2012;
- Reviewing the draft 2013 ATR and providing comments to me;
- Providing recommendations to me regarding priority monitoring and experimentation for 2013 for consideration during preparation of the 2013 MAP; and
- Evaluating performance of certain predictive models (water temperature) for 2012 Interim Flow releases to advise me as I prepare 2013 Interim Flow Program recommendations.

## **7. ADDITIONAL MEASURES RECOMMENDED TO ENHANCE PROSPECTS FOR ACHIEVING THE RESTORATION GOAL**

I am not recommending additional measures, other than those covered in *Section 4* and *Section 6* to enhance the prospects for achieving the Restoration Goal in this Annual Report.

## 8. 2011 RA AND TAC EXPENDITURES

Settlement Exhibit D requires that my Annual Report include a summary of expenditures during the preceding year. The Resources Legacy Fund (RLF) oversees the activities of the RA and TAC continued to operate under the oversight of the pursuant to the terms of a May 25, 2007, Grant Agreement (2007 Agreement) between the State (DWR and DFG) and RLF. A total of \$1,950,000 was provided for RA/TAC operations under the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act of 2000. The RLF administers funding for RA and TAC and contracts with the RA and TAC members. RA/TAC contracts were to expire June 30, 2010; however, RLF received a “time-only” extension from DWR/DFG that enables remaining funds to be used through December 31, 2010. As of December 31, all of the \$1,950,000 in funding provided for by the 2007 Grant Agreement had been transferred to RLF by DWR/DFG.

At the end of 2011, of the \$1,950,000 transferred to RLF to support the RA and TAC, a total of \$1,481,223.58 has been expended to cover RA and TAC activities and RLF Administrative costs (\$120,000) through 2011. During 2011, RA and TAC expenditures totaled \$449,057. Therefore, on December 31, 2011, \$861,749 was available to support RA and TAC activities during 2012 and through September 30, 2013.

A new Grant Agreement between DWR and RLF was signed in late 2011 to continue funding RA/TAC activities through December 31, 2012; subsequently, a “time-only” extension was signed to provide for extend the date for eligible expenditures under the Grant Agreement to September 30, 2013. The DWR/RLF Agreement provides for \$1,000,000 to fund RA and TAC activities in five (5) installments of \$200,000 commencing in 2011. The first three DWR installment payments to RLF already have been received. The remaining \$400,000 will be paid in two installments during 2012. Funding provided by the most recent Grant Agreement is expected to be sufficient to fund my activities and TAC activities through September 30, 2013.