

Union Calendar No. 280

112TH CONGRESS
2^D SESSION

H. R. 1837

[Report No. 112-403]

To address certain water-related concerns on the San Joaquin River, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 11, 2011

Mr. NUNES (for himself, Mr. MCCARTHY of California, and Mr. DENHAM) introduced the following bill; which was referred to the Committee on Natural Resources

FEBRUARY 27, 2012

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on May 11, 2011]

A BILL

To address certain water-related concerns on the San
Joaquin River, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Sacramento-San Joa-*
 5 *quin Valley Water Reliability Act”.*

6 **SEC. 2. TABLE OF CONTENTS.**

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1 **TITLE I—CENTRAL VALLEY**
 2 **PROJECT WATER RELIABILITY**

3 **SEC. 101. AMENDMENT TO PURPOSES.**

4 *Section 3402 of the Central Valley Project Improve-*
 5 *ment Act (106 Stat. 4706) is amended—*

6 *(1) in subsection (f), by striking the period at the*
 7 *end; and*

8 *(2) by adding at the end the following:*

9 *“(g) to ensure that water dedicated to fish and wildlife*
 10 *purposes by this title is replaced and provided to Central*
 11 *Valley Project water contractors by December 31, 2016, at*
 12 *the lowest cost reasonably achievable; and*

13 *“(h) to facilitate and expedite water transfers in ac-*
 14 *cordance with this Act.”.*

15 **SEC. 102. AMENDMENT TO DEFINITION.**

16 *Section 3403 of the Central Valley Project Improve-*
 17 *ment Act (106 Stat. 4707) is amended—*

18 *(1) by amending subsection (a) to read as fol-*
 19 *lows:*

20 *“(a) the term ‘anadromous fish’ means those native*
 21 *stocks of salmon (including steelhead) and sturgeon that,*
 22 *as of October 30, 1992, were present in the Sacramento and*

1 *San Joaquin Rivers and their tributaries and ascend those*
 2 *rivers and their tributaries to reproduce after maturing in*
 3 *San Francisco Bay or the Pacific Ocean;”;*

4 (2) *in subsection (l), by striking “and,”*

5 (3) *in subsection (m), by striking the period and*
 6 *inserting “; and”, and*

7 (4) *by adding at the end the following:*

8 “(n) *the term ‘reasonable flows’ means water flows ca-*
 9 *pable of being maintained taking into account competing*
 10 *consumptive uses of water and economic, environmental,*
 11 *and social factors.”.*

12 **SEC. 103. CONTRACTS.**

13 *Section 3404 of the Central Valley Project Improve-*
 14 *ment Act (106 Stat. 4708) is amended—*

15 (1) *in the heading, by striking “LIMITATION*
 16 ***ON CONTRACTING AND CONTRACTS REFORM*”**
 17 *and inserting “CONTRACTS”; and*

18 (2) *by striking the language of the section and*
 19 *by adding:*

20 “(a) **RENEWAL OF EXISTING LONG-TERM CON-**
 21 **TRACTS.**—*Upon request of the contractor, the Secretary*
 22 *shall renew any existing long-term repayment or water*
 23 *service contract that provides for the delivery of water from*
 24 *the Central Valley Project for a period of 40 years, and*
 25 *renew such contracts for successive periods of 40 years each.*

1 “(b) *DELIVERY CHARGE.*—Beginning on the date of
2 *the enactment of this Act, a contract entered into or renewed*
3 *pursuant to this section shall include a provision that re-*
4 *quires the Secretary to charge the other party to such con-*
5 *tract only for water actually delivered by the Secretary.”.*

6 **SEC. 104. WATER TRANSFERS, IMPROVED WATER MANAGE-**
7 **MENT, AND CONSERVATION.**

8 *Section 3405 of the Central Valley Project Improve-*
9 *ment Act (106 Stat. 4709) is amended as follows:*

10 (1) *In subsection (a)—*

11 (A) *by inserting before “Except as provided*
12 *herein” the following: “The Secretary shall take*
13 *all necessary actions to facilitate and expedite*
14 *transfers of Central Valley Project water in ac-*
15 *cordance with this Act or any other provision of*
16 *Federal reclamation law and the National Envi-*
17 *ronmental Policy Act of 1969.”;*

18 (B) *in paragraph (1)(A), by striking “to*
19 *combination” and inserting “or combination”;*

20 (C) *in paragraph (2), by adding at the end*
21 *the following:*

22 “(E) *The contracting district from which*
23 *the water is coming, the agency, or the Secretary*
24 *shall determine if a written transfer proposal is*
25 *complete within 45 days after the date of submis-*

1 *sion of such proposal. If such district or agency*
2 *or the Secretary determines that such proposal is*
3 *incomplete, such district or agency or the Sec-*
4 *retary shall state with specificity what must be*
5 *added to or revised in order for such proposal to*
6 *be complete.*

7 *“(F) Except as provided in this section, the*
8 *Secretary shall not impose mitigation or other*
9 *requirements on a proposed transfer, but the con-*
10 *tracting district from which the water is coming*
11 *or the agency shall retain all authority under*
12 *State law to approve or condition a proposed*
13 *transfer.”; and*

14 *(D) by adding at the end the following:*

15 *“(4) Notwithstanding any other provision of*
16 *Federal reclamation law—*

17 *“(A) the authority to make transfers or ex-*
18 *changes of, or banking or recharge arrangements*
19 *using, Central Valley Project water that could*
20 *have been conducted before October 30, 1992, is*
21 *valid, and such transfers, exchanges, or arrange-*
22 *ments shall not be subject to, limited, or condi-*
23 *tioned by this title; and*

24 *“(B) this title shall not supersede or revoke*
25 *the authority to transfer, exchange, bank, or re-*

1 charge Central Valley Project water that existed
2 prior to October 30, 1992.”.

3 (2) In subsection (b)—

4 (A) in the heading, by striking “METER-
5 ING” and inserting “MEASUREMENT”; and

6 (B) by inserting after the first sentence the
7 following: “The contracting district or agency,
8 not including contracting districts serving mul-
9 tiple agencies with separate governing boards,
10 shall ensure that all contractor-owned water de-
11 livery systems within its boundaries measure
12 surface water at the district or agency’s facilities
13 up to the point the surface water is commingled
14 with other water supplies.”.

15 (3) By striking subsection (d).

16 (4) By redesignating subsections (e) and (f) as
17 subsections (d) and (e), respectively.

18 (5) By amending subsection (e)(as redesignated
19 by paragraph (4))—

20 (A) by striking “as a result of the increased
21 repayment” and inserting “that exceed the cost-
22 of-service”;

23 (B) by inserting “the delivery of” after
24 “rates applicable to”; and

1 (C) by striking “, and all increased reve-
2 nues received by the Secretary as a result of the
3 increased water prices established under sub-
4 section 3405(d) of this section,”.

5 **SEC. 105. FISH, WILDLIFE, AND HABITAT RESTORATION.**

6 Section 3406 of the Central Valley Project Improve-
7 ment Act (106 Stat. 4714) is amended as follows:

8 (1) In subsection (b)—

9 (A) in paragraph (1)(B)—

10 (i) by striking “is authorized and di-
11 rected to” and inserting “may”;

12 (ii) by inserting “reasonable water”
13 after “to provide”;

14 (iii) by striking “anadromous fish, ex-
15 cept that such” and inserting “anadromous
16 fish. Such”;

17 (iv) by striking “Instream flow” and
18 inserting “Reasonable instream flow”;

19 (v) by inserting “and the National Ma-
20 rine Fisheries Service” after “United States
21 Fish and Wildlife Service”; and

22 (vi) by striking “California Depart-
23 ment of Fish and Game” and inserting
24 “United States Geological Survey”;

25 (B) in paragraph (2)—

- 1 (i) by striking “primary purpose” and
2 inserting “purposes”;
- 3 (ii) by striking “but not limited to” be-
4 fore “additional obligations”; and
- 5 (iii) by adding after the period the fol-
6 lowing: “All Central Valley Project water
7 used for the purposes specified in this para-
8 graph shall be credited to the quantity of
9 Central Valley Project yield dedicated and
10 managed under this paragraph by deter-
11 mining how the dedication and manage-
12 ment of such water would affect the delivery
13 capability of the Central Valley Project dur-
14 ing the 1928 to 1934 drought period after
15 fishery, water quality, and other flow and
16 operational requirements imposed by terms
17 and conditions existing in licenses, permits,
18 and other agreements pertaining to the Cen-
19 tral Valley Project under applicable State
20 or Federal law existing on October 30,
21 1992, have been met. To the fullest extent
22 possible and in accordance with section
23 3411, Central Valley Project water dedi-
24 cated and managed pursuant to this para-
25 graph shall be reused to fulfill the Sec-

1 *retary’s remaining contractual obligations*
2 *to provide Central Valley Project water for*
3 *agricultural or municipal and industrial*
4 *purposes.”;*

5 *(C) by amending paragraph (2)(C) to read:*

6 *“(C) If by March 15th of any year the*
7 *quantity of Central Valley Project water fore-*
8 *casted to be made available to water service or*
9 *repayment contractors in the Delta Division of*
10 *the Central Valley Project is below 75 percent of*
11 *the total quantity of water to be made available*
12 *under said contracts, the quantity of Central*
13 *Valley Project yield dedicated and managed for*
14 *that year under this paragraph shall be reduced*
15 *by 25 percent.”.*

16 *(2) By adding at the end the following:*

17 *“(i) SATISFACTION OF PURPOSES.—By*
18 *pursuing the activities described in this sec-*
19 *tion, the Secretary shall be deemed to have*
20 *met the mitigation, protection, restoration,*
21 *and enhancement purposes of this title.”.*

22 **SEC. 106. RESTORATION FUND.**

23 *(a) IN GENERAL.—Section 3407(a) of the Central Val-*
24 *ley Project Improvement Act (106 Stat. 4726) is amended*
25 *as follows:*

1 (1) *By inserting “(1) IN GENERAL.—” before*
2 *“There is hereby”.*

3 (2) *By striking “Not less than 67 percent” and*
4 *all that follows through “Monies” and inserting*
5 *“Monies”.*

6 (3) *By adding at the end the following:*

7 “(2) *PROHIBITIONS.—The Secretary may not directly*
8 *or indirectly require a donation or other payment to the*
9 *Restoration Fund—*

10 *“(A) or environmental restoration or mitigation*
11 *fees not otherwise provided by law, as a condition*
12 *to—*

13 *“(i) providing for the storage or conveyance*
14 *of non-Central Valley Project water pursuant to*
15 *Federal reclamation laws; or*

16 *“(ii) the delivery of water pursuant to sec-*
17 *tion 215 of the Reclamation Reform Act of 1982*
18 *(Public Law 97–293; 96 Stat. 1270); or*

19 *“(B) for any water that is delivered with the sole*
20 *intent of groundwater recharge.”.*

21 (b) *CERTAIN PAYMENTS.—Section 3407(c)(1) of the*
22 *Central Valley Project Improvement Act is amended—*

23 (1) *by striking “mitigation and restoration”;*

24 (2) *by striking “provided for or”; and*

1 (3) *by striking “of fish, wildlife” and all that fol-*
2 *lows through the period and inserting “of carrying*
3 *out all activities described in this title.”.*

4 (c) *ADJUSTMENT AND ASSESSMENT OF MITIGATION*
5 *AND RESTORATION PAYMENTS.*—*Section 3407(d)(2) of the*
6 *Central Valley Project Improvement Act is amended by in-*
7 *serting “, or after October 1, 2013, \$4 per megawatt-hour*
8 *for Central Valley Project power sold to power contractors*
9 *(October 2013 price levels)” after “\$12.00 per acre-foot (Oc-*
10 *tober 1992 price levels) for municipal and industrial water*
11 *sold and delivered by the Central Valley Project”.*

12 (d) *COMPLETION OF ACTIONS.*—*Section 3407(d)(2)(A)*
13 *of the Central Valley Project Improvement Act is amended*
14 *by inserting “, no later than December 31, 2020,” after*
15 *“That upon the completion of the fish, wildlife, and habitat*
16 *mitigation and restoration actions mandated under section*
17 *3406 of this title.”.*

18 (e) *REPORT; ADVISORY BOARD.*—*Section 3407 of the*
19 *Central Valley Project Improvement Act (106 Stat. 4714)*
20 *is amended by adding at the end the following:*

21 “(g) *REPORT ON EXPENDITURE OF FUNDS.*—*At the*
22 *end of each fiscal year, the Secretary, in consultation with*
23 *the Restoration Fund Advisory Board, shall submit to Con-*
24 *gress a plan for the expenditure of all of the funds deposited*
25 *into the Restoration Fund during the preceding fiscal year.*

1 *Such plan shall contain a cost-effectiveness analysis of each*
2 *expenditure.*

3 *“(h) ADVISORY BOARD.—*

4 *“(1) ESTABLISHMENT.—There is hereby estab-*
5 *lished the Restoration Fund Advisory Board (herein-*
6 *after in this section referred to as the ‘Advisory*
7 *Board’) composed of 12 members selected by the Sec-*
8 *retary, each for four-year terms, one of whom shall be*
9 *designated by the Secretary as Chairman. The mem-*
10 *bers shall be selected so as to represent the various*
11 *Central Valley Project stakeholders, four of whom*
12 *shall be from CVP agricultural users, three from CVP*
13 *municipal and industrial users, three from CVP*
14 *power contractors, and two at the discretion of the*
15 *Secretary. The Secretary and the Secretary of Com-*
16 *merce may each designate a representative to act as*
17 *an observer of the Advisory Board.*

18 *“(2) DUTIES.—The duties of the Advisory Board*
19 *are as follows:*

20 *“(A) To meet at least semiannually to de-*
21 *velop and make recommendations to the Sec-*
22 *retary regarding priorities and spending levels*
23 *on projects and programs carried out pursuant*
24 *to the Central Valley Project Improvement Act.*

1 “(B) To ensure that any advice or rec-
2 ommendation made by the Advisory Board to the
3 Secretary reflect the independent judgment of the
4 Advisory Board.

5 “(C) Not later than December 31, 2013, and
6 annually thereafter, to transmit to the Secretary
7 and Congress recommendations required under
8 subparagraph (A).

9 “(D) Not later than December 31, 2013, and
10 biennially thereafter, to transmit to Congress a
11 report that details the progress made in achiev-
12 ing the actions mandated under section 3406 of
13 this title.

14 “(3) ADMINISTRATION.—With the consent of the
15 appropriate agency head, the Advisory Board may
16 use the facilities and services of any Federal agency.”.

17 **SEC. 107. ADDITIONAL AUTHORITIES.**

18 (a) AUTHORITY FOR CERTAIN ACTIVITIES.—Section
19 3408(c) of the Central Valley Project Improvement Act (106
20 Stat. 4728) is amended to read as follows:

21 “(c) CONTRACTS FOR ADDITIONAL STORAGE AND DE-
22 LIVERY OF WATER.—

23 “(1) IN GENERAL.—The Secretary is authorized
24 to enter into contracts pursuant to Federal reclama-
25 tion law and this title with any Federal agency, Cali-

1 *for*nia water user or water agency, State agency, or
2 private organization for the exchange, impoundment,
3 storage, carriage, and delivery of nonproject water for
4 domestic, municipal, industrial, fish and wildlife,
5 and any other beneficial purpose.

6 “(2) *LIMITATION.*—Nothing in this subsection
7 shall be deemed to supersede the provisions of section
8 103 of Public Law 99–546 (100 Stat. 3051).

9 “(3) *AUTHORITY FOR CERTAIN ACTIVITIES.*—The
10 Secretary shall use the authority granted by this sub-
11 section in connection with requests to exchange, im-
12 pound, store, carry, or deliver nonproject water using
13 Central Valley Project facilities for any beneficial
14 purpose.

15 “(4) *RATES.*—The Secretary shall develop rates
16 not to exceed the amount required to recover the rea-
17 sonable costs incurred by the Secretary in connection
18 with a beneficial purpose under this subsection. Such
19 rates shall be charged to a party using Central Valley
20 Project facilities for such purpose. Such costs shall not
21 include any donation or other payment to the Res-
22 toration Fund.

23 “(5) *CONSTRUCTION.*—This subsection shall be
24 construed and implemented to facilitate and encour-
25 age the use of Central Valley Project facilities to ex-

1 *change, impound, store, carry, or deliver nonproject*
2 *water for any beneficial purpose.”.*

3 **(b) REPORTING REQUIREMENTS.**—*Section 3408(f) of*
4 *the Central Valley Project Improvement Act (106 Stat.*
5 *4729) is amended—*

6 *(1) by striking “Interior and Insular Affairs and*
7 *the Committee on Merchant Marine and Fisheries”*
8 *and inserting “Natural Resources”;*

9 *(2) in the second sentence, by inserting before the*
10 *period at the end the following: “, including progress*
11 *on the plan required by subsection (j)”;* and

12 *(3) by adding at the end the following: “The fil-*
13 *ing and adequacy of such report shall be personally*
14 *certified to the Committees referenced above by the*
15 *Regional Director of the Mid-Pacific Region of the*
16 *Bureau of Reclamation.”.*

17 **(c) PROJECT YIELD INCREASE.**—*Section 3408(j) of the*
18 *Central Valley Project Improvement Act (106 Stat. 4730)*
19 *is amended as follows:*

20 *(1) By redesignating paragraphs (1) through (7)*
21 *as subparagraphs (A) through (G), respectively.*

22 *(2) By striking “In order to minimize adverse*
23 *effects, if any, upon” and inserting “(1) IN GEN-*
24 *ERAL.—In order to minimize adverse effects upon”.*

1 (3) *By striking “needs, the Secretary,” and all*
2 *that follows through “submit to Congress, a” and in-*
3 *serting “needs, the Secretary, on a priority basis and*
4 *not later than September 30, 2013, shall submit to*
5 *Congress a”.*

6 (4) *By striking “increase,” and all that follows*
7 *through “options—” and inserting “increase, as soon*
8 *as possible but not later than September 30, 2016 (ex-*
9 *cept for the construction of new facilities which shall*
10 *not be limited by that deadline), the water of the Cen-*
11 *tral Valley Project by the amount dedicated and man-*
12 *aged for fish and wildlife purposes under this title*
13 *and otherwise required to meet the purposes of the*
14 *Central Valley Project including satisfying contrac-*
15 *tual obligations. The plan required by this subsection*
16 *shall include recommendations on appropriate cost-*
17 *sharing arrangements and authorizing legislation or*
18 *other measures needed to implement the intent, pur-*
19 *poses, and provisions of this subsection and a descrip-*
20 *tion of how the Secretary intends to use the following*
21 *options—”.*

22 (5) *In subparagraph (A), by inserting “and con-*
23 *struction of new water storage facilities” before the*
24 *semicolon.*

1 (6) *In subparagraph (F), by striking “and” at*
2 *the end.*

3 (7) *In subparagraph (G), by striking the period*
4 *and all that follows through the end of the subsection*
5 *and inserting “; and”.*

6 (8) *By inserting after subparagraph (G) the fol-*
7 *lowing:*

8 *“(H) Water banking and recharge.”.*

9 (9) *By adding at the end the following:*

10 *“(2) IMPLEMENTATION OF PLAN.—The Secretary*
11 *shall implement the plan required by paragraph (1)*
12 *commencing on October 1, 2013. In order to carry out*
13 *this subsection, the Secretary shall coordinate with*
14 *the State of California in implementing measures for*
15 *the long-term resolution of problems in the San Fran-*
16 *cisco Bay/Sacramento-San Joaquin Delta Estuary.*

17 *“(3) FAILURE OF THE PLAN.—Notwithstanding*
18 *any other provision of Federal reclamation law, if by*
19 *September 30, 2016, the plan required by paragraph*
20 *(1) fails to increase the annual delivery capability of*
21 *the Central Valley Project by 800,000 acre-feet, imple-*
22 *mentation of any non-mandatory action under sec-*
23 *tion 3406(b)(2) shall be suspended until the plan*
24 *achieves an increase in the annual delivery capability*
25 *of the Central Valley Project by 800,000 acre-feet.”.*

1 (d) *TECHNICAL CORRECTION.*—Section 3408(h) of the
2 *Central Valley Project Improvement Act (106 Stat. 4729)*
3 *is amended—*

4 (1) *in paragraph (1), by striking “paragraph*
5 *(h)(2)” and inserting “paragraph (2)”*; and

6 (2) *in paragraph (2), by striking “paragraph*
7 *(h)(i)” and inserting “paragraph (1)”*.

8 (e) *WATER STORAGE PROJECT CONSTRUCTION.*—*The*
9 *Secretary, acting through the Commissioner of the Bureau*
10 *of Reclamation, may partner on the water storage projects*
11 *identified in section 103(d)(1) of the Water Supply Reli-*
12 *ability, and Environmental Improvement Act (Public Law*
13 *108–361)(and Acts supplemental and amendatory to the*
14 *Act) with local joint powers authorities formed pursuant*
15 *to State law by irrigation districts and other local water*
16 *districts and local governments within the applicable hy-*
17 *drologic region, to advance these projects. No Federal funds*
18 *are authorized for this purpose and each water storage*
19 *project is authorized for construction if non-Federal funds*
20 *are used for financing and constructing the project.*

21 **SEC. 108. BAY-DELTA ACCORD.**

22 (a) *CONGRESSIONAL DIRECTION REGARDING CENTRAL*
23 *VALLEY PROJECT AND CALIFORNIA STATE WATER*
24 *PROJECT OPERATIONS.*—*The Central Valley Project and*
25 *the State Water Project shall be operated pursuant to the*

1 *water quality standards and operational constraints de-*
2 *scribed in the “Principles for Agreement on the Bay-Delta*
3 *Standards Between the State of California and the Federal*
4 *Government” dated December 15, 1994, and such oper-*
5 *ations shall proceed without regard to the Endangered Spe-*
6 *cies Act of 1973 (16 U.S.C. 1531 et seq.) or any other law*
7 *pertaining to the operation of the Central Valley Project*
8 *and the California State Water Project. Implementation of*
9 *this section shall be in strict conformance with the “Prin-*
10 *ciples for Agreement on the Bay-Delta Standards Between*
11 *the State of California and the Federal Government” dated*
12 *December 15, 1994.*

13 **(b) APPLICATION OF LAWS TO OTHERS.**—*Neither a*
14 *Federal department nor the State of California, including*
15 *any agency or board of the State of California, shall impose*
16 *on any valid water right obtained pursuant to State law,*
17 *including a pre-1914 appropriative right, any condition*
18 *that restricts the exercise of that water right in order to*
19 *conserve, enhance, recover or otherwise protect any species*
20 *that is affected by operations of the Central Valley Project*
21 *or California State Water Project. Nor shall the State of*
22 *California, including any agency or board of the State of*
23 *California, restrict the exercise of any valid water right ob-*
24 *tained pursuant to State law, including a pre-1914 appro-*
25 *priative right, in order to protect, enhance, or restore under*

1 *the Public Trust Doctrine any public trust value. Imple-*
2 *mentation of the “Principles for Agreement on the Bay-*
3 *Delta Standards Between the State of California and the*
4 *Federal Government” dated December 15, 1994, shall be in*
5 *strict compliance with the water rights priority system and*
6 *statutory protections for areas of origin.*

7 (c) *COSTS.—No cost associated with the implementa-*
8 *tion of this section shall be imposed directly or indirectly*
9 *on any Central Valley Project contractor, or any other per-*
10 *son or entity, unless such costs are incurred on a voluntary*
11 *basis.*

12 (d) *NATIVE SPECIES PROTECTION.—California law is*
13 *preempted with respect to any restriction on the quantity*
14 *or size of nonnative fish taken or harvested that preys upon*
15 *one or more native fish species that occupy the Sacramento*
16 *and San Joaquin Rivers and their tributaries or the Sac-*
17 *ramento-San Joaquin Rivers Delta.*

18 **SEC. 109. NATURAL AND ARTIFICIALLY SPAWNED SPECIES.**

19 *After the date of the enactment of this title, and regard-*
20 *less of the date of listing, the Secretaries of the Interior and*
21 *Commerce shall not distinguish between natural-spawned*
22 *and hatchery-spawned or otherwise artificially propagated*
23 *strains of a species in making any determination under the*
24 *Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)*
25 *that relates to any anadromous fish species present in the*

1 *Sacramento and San Joaquin Rivers or their tributaries*
2 *and ascend those rivers and their tributaries to reproduce*
3 *after maturing in San Francisco Bay or the Pacific Ocean.*

4 **SEC. 110. AUTHORIZED SERVICE AREA.**

5 *The authorized service area of the Central Valley*
6 *Project shall include the area within the boundaries of the*
7 *Kettleman City Community Services District, California,*
8 *as those boundaries exist on the date of the enactment of*
9 *this title. Notwithstanding the provisions of the Act of Octo-*
10 *ber 30, 1992 (Public Law 102–575, 106 Stat. 4600 et seq.),*
11 *upon enactment of this title, the Secretary is authorized and*
12 *directed to enter into a long-term contract in accordance*
13 *with the reclamation laws with the Kettleman City Commu-*
14 *nity Services District, California, for the delivery of up to*
15 *900 acre-feet of Central Valley Project water for municipal*
16 *and industrial use. The Secretary may temporarily reduce*
17 *deliveries of the quantity of water made available pursuant*
18 *to up to 25 percent of such total whenever reductions due*
19 *to hydrologic circumstances are imposed upon agricultural*
20 *deliveries of Central Valley Project water. If any additional*
21 *infrastructure or related-costs are needed to implement this*
22 *section, such costs shall be the responsibility of the non-Fed-*
23 *eral entity.*

1 **SEC. 111. REGULATORY STREAMLINING.**

2 (a) *APPLICABILITY OF CERTAIN LAWS.*—*Filing of a*
3 *Notice of Determination or a Notice of Exemption for any*
4 *project, including the issuance of a permit under State law,*
5 *related to any project of the CVP or the delivery of water*
6 *therefrom in accordance with the California Environmental*
7 *Quality Act shall be deemed to meet the requirements of*
8 *section 102(2)(C) of the National Environmental Protection*
9 *Act of 1969 (42 U.S.C. 4332(2)(C)) for that project or per-*
10 *mit.*

11 (b) *CONTINUATION OF PROJECT.*—*The Bureau of Rec-*
12 *lamation shall not be required to cease or modify any major*
13 *Federal action or other activity related to any project of*
14 *the CVP or the delivery of water there from pending comple-*
15 *tion of judicial review of any determination made under*
16 *the National Environmental Protection Act of 1969 (42*
17 *U.S.C. 4332(2)(C)).*

18 (c) *PROJECT DEFINED.*—*For the purposes of this sec-*
19 *tion:*

20 (1) *CVP.*—*The term “CVP” means the Central*
21 *Valley Project.*

22 (2) *PROJECT.*—*The term “project”—*

23 (A) *means an activity that—*

24 (i) *is undertaken by a public agency,*
25 *funded by a public agency, or that requires*
26 *an issuance of a permit by a public agency;*

1 (ii) has a potential to result in phys-
2 ical change to the environment; and

3 (iii) may be subject to several discre-
4 tionary approvals by governmental agen-
5 cies;

6 (B) may include construction activities,
7 clearing or grading of land, improvements to ex-
8 isting structures, and activities or equipment in-
9 volving the issuance of a permit; or

10 (C) as defined under the California Envi-
11 ronmental Quality Act in section 21065 of the
12 California Public Resource Code.

13 **TITLE II—SAN JOAQUIN RIVER**
14 **RESTORATION**

15 **SEC. 201. REPEAL OF THE SAN JOAQUIN RIVER SETTLE-**
16 **MENT.**

17 *As of the date of enactment of this title, the Secretary*
18 *shall cease any action to implement the Stipulation of Set-*
19 *tlement (Natural Resources Defense Council, et al. v. Kirk*
20 *Rodgers, et al., Eastern District of California, No. Civ. S-*
21 *88-1658 LKK/GGH).*

22 **SEC. 202. PURPOSE.**

23 *Section 10002 of the San Joaquin River Restoration*
24 *Settlement Act (Public Law 111-11) is amended by striking*

1 *“implementation of the Settlement” and inserting “restora-*
2 *tion of the San Joaquin River”.*

3 **SEC. 203. DEFINITIONS.**

4 *Section 10003 of the San Joaquin River Restoration*
5 *Settlement Act (Public Law 111–11) is amended—*

6 *(1) by striking paragraph (1) and inserting the*
7 *following:*

8 *“(1) The term ‘Restoration Flows’ means the ad-*
9 *ditional water released or bypassed from Friant Dam*
10 *to insure that the target flow entering Mendota Pool,*
11 *located approximately 62 river miles downstream*
12 *from Friant Dam, does not fall below 50 cubic feet*
13 *per second.”;*

14 *(2) by striking paragraph (3) and inserting the*
15 *following:*

16 *“(3) The term ‘Water Year’ means March 1*
17 *through the last day of February of the following Cal-*
18 *endar Year, both dates inclusive”;* and

19 *(3) by adding at the end the following new para-*
20 *graph:*

21 *“(4) The term ‘Critical Water Year’ means when*
22 *the total unimpaired runoff at Friant Dam is less*
23 *than 400,000 acre-feet, as forecasted as of March 1 of*
24 *that water year by the California Department of*
25 *Water Resources.”.*

1 **SEC. 204. IMPLEMENTATION OF RESTORATION.**

2 *Section 10004 of the San Joaquin River Restoration*
3 *Settlement Act (Public Law 111–11) is amended—*

4 *(1) in subsection (a)—*

5 *(A) in the matter preceding paragraph (1),*
6 *by striking “authorized and directed” and all*
7 *that follows through “in the Settlement” and in-*
8 *serting “authorized to carry out the following:”;*

9 *(B) by striking paragraphs (1), (2), (4),*
10 *and (5);*

11 *(C) in paragraph (3)—*

12 *(i) by striking “(3)” and inserting*
13 *“(1)”;* and

14 *(ii) by striking “paragraph 13 of the*
15 *Settlement” and inserting “this part”*

16 *(D) by adding at the end the following new*
17 *paragraphs:*

18 *“(2) In each Water Year, commencing in the*
19 *Water Year starting on March 1, 2013—*

20 *“(A) shall modify Friant Dam operations*
21 *so as to release the Restoration Flows for that*
22 *Water Year, except in any Critical Water Year;*

23 *“(B) shall ensure that the release of Res-*
24 *toration Flows are maintained at the level pre-*
25 *scribed by this part, but that Restoration Flows*
26 *do not reach downstream of Mendota Pool;*

1 “(C) shall release the Restoration Flows in
2 a manner that improves the fishery in the San
3 Joaquin River below Friant Dam, but upstream
4 of Gravelly Ford in existence as of the date of the
5 enactment of this part, and the associated ripar-
6 ian habitat; and

7 “(D) may, without limiting the actions re-
8 quired under paragraphs (A) and (C) and sub-
9 ject to subsections 10004(a)(3) and 10004(l), use
10 the Restoration Flows to enhance or restore a
11 warm water fishery downstream of Gravelly
12 Ford to and including Mendota Pool, if the Sec-
13 retary determines that it is reasonable, prudent,
14 and feasible to do so; and

15 “(3) Not later than 1 year after the date of the
16 enactment of this section, the Secretary shall develop
17 and implement, in cooperation with the State of Cali-
18 fornia, a reasonable plan, to fully recirculate, recap-
19 ture, reuse, exchange, or transfer all Restoration
20 Flows and provide such recirculated, recaptured, re-
21 used, exchanged, or transferred flows to those contrac-
22 tors within the Friant Division, Hidden Unit, and
23 Buchanan Unit of the Central Valley Project that re-
24 linquished the Restoration Flows so recirculated, re-
25 captured, reused, exchanged, or transferred. Such a

1 *plan shall address any impact on ground water re-*
2 *sources within the service area of the Friant Division,*
3 *Hidden Unit, and Buchanan Unit of the Central Val-*
4 *ley Project and mitigation may include ground water*
5 *banking and recharge projects. Such a plan shall not*
6 *impact the water supply or water rights of any entity*
7 *outside the Friant Division, Hidden unit, and*
8 *Buchanan Unit of the Central Valley Project. Such a*
9 *plan shall be subject to applicable provisions of Cali-*
10 *ifornia water law and the Secretary’s use of Central*
11 *Valley Project facilities to make Project water (other*
12 *than water released from Friant Dam pursuant to*
13 *this part) and water acquired through transfers avail-*
14 *able to existing south-of-Delta Central Valley Project*
15 *contractors.”;*

16 *(2) in subsection (b)—*

17 *(A) in paragraph (1), by striking “the Set-*
18 *tlement” and inserting “this part”;*

19 *(B) in paragraph (2), by striking “the Set-*
20 *tlement” and inserting “this part”;*

21 *(3) in subsection (c), by striking “the Settle-*
22 *ment” and inserting “this part”;*

23 *(4) by striking subsection (d) and inserting the*
24 *following:*

1 “(d) *MITIGATION OF IMPACTS.*—Prior to October 1,
2 2013, the Secretary shall identify—

3 “(1) *the impacts associated with the release of*
4 *Restoration Flows prescribed in this part;*

5 “(2) *the measures which shall be implemented to*
6 *mitigate impacts on adjacent and downstream water*
7 *users, landowners and agencies as a result of Restora-*
8 *tion Flows prescribed in this part; and*

9 “(3) *prior to the implementation of decisions or*
10 *agreements to construct, improve, operate, or main-*
11 *tain facilities that the Secretary determines are need-*
12 *ed to implement this part, the Secretary shall imple-*
13 *ment all mitigations measures identified in subsection*
14 *(d)(2) before Restoration Flows are commenced.”;*

15 “(5) *in subsection (e), by striking “the Settle-*
16 *ment” and inserting “this part”;*

17 “(6) *in subsection (f), by striking “the Settle-*
18 *ment” and all that follows through “section 10011”*
19 *and insert “this part”;*

20 “(7) *in subsection (g)—*

21 “(A) *by striking “the Settlement and” before*
22 *this part; and*

23 “(B) *by striking “or exchange contract” and*
24 *inserting “exchange contract, or water rights set-*
25 *tlement or holding contracts”;*

1 (8) in subsection (h)—

2 (A) by striking “INTERIM” in the header;

3 (B) in paragraph (1)—

4 (i) in the matter preceding subpara-
5 graph (A), by striking “Interim Flows
6 under the Settlement” and inserting “Res-
7 toration Flows under this part”;

8 (ii) in subparagraph (C)—

9 (I) in clause (i), by striking “In-
10 terim” and inserting “Restoration”;
11 and

12 (II) in clause (ii), by inserting
13 “and” after the semicolon;

14 (iii) in subparagraph (D), by striking
15 “and” at the end; and

16 (iv) by striking subparagraph (E);

17 (C) in paragraph (2)—

18 (i) by striking “Interim” and inserting
19 “Restoration”;

20 (ii) by striking subparagraph (A); and

21 (iii) by striking “(B) exceed” and in-
22 sserting “exceed”;

23 (D) in paragraph (3), by striking “In-
24 terim” and inserting “Restoration”; and

1 (E) by striking paragraph (4) and inserting
2 the following:

3 “(4) CLAIMS.—Within 60 days of enactment of
4 this Act the Secretary shall promulgate a rule estab-
5 lishing a claims process to address current and future
6 claims including, but not limited to, ground water
7 seepage, flooding, or levee instability damages caused
8 as a result of, arising out of, or related to implemen-
9 tation of subtitle A of title X of Public Law 111–11.”;

10 (9) in subsection (i)—

11 (A) in paragraph (1)—

12 (i) in the matter preceding subpara-
13 graph (A), by striking “the Settlement and
14 parts I and III” and inserting “this part”;

15 (ii) in subparagraph (A), by inserting
16 “and” after the semicolon;

17 (iii) in subparagraph (B)—

18 (I) by striking “additional
19 amounts authorized to be appro-
20 priated, including the”;

21 (II) by striking “; and” and in-
22 serting a period; and

23 (iv) by striking subparagraph (C); and
24 (B) by striking paragraph (3); and

1 (10) by adding at the end the following new sub-
2 sections:

3 “(k) *NO IMPACTS ON OTHER INTERESTS.*—No Central
4 *Valley Project* or other water other than *San Joaquin River*
5 *water impounded by or bypassed from Friant Dam* shall
6 *be used to implement subsection (a)(2) unless such use is*
7 *on a voluntary basis. No cost associated with the implemen-*
8 *tation of this section shall be imposed directly or indirectly*
9 *on any Central Valley Project contractor, or any other per-*
10 *son or entity, outside the Friant Division, the Hidden Unit,*
11 *or the Buchanan Unit, unless such costs are incurred on*
12 *a voluntary basis. The implementation of this part shall*
13 *not result directly or indirectly in any reduction in water*
14 *supplies or water reliability on any Central Valley Project*
15 *contractor, any State Water Project contractor, or any other*
16 *person or entity, outside the Friant Division, the Hidden*
17 *Unit, or the Buchanan Unit, unless such reductions or costs*
18 *are incurred on a voluntary basis.*

19 “(l) *PRIORITY.*—All actions taken under this part
20 *shall be subordinate to the Secretary’s use of Central Valley*
21 *Project facilities to make Project water available to Project*
22 *contractors, other than water released from the Friant Dam*
23 *pursuant to this part.*

24 “(m) *IN GENERAL.*—Notwithstanding section 8 of the
25 *Reclamation Act of 1902, except as provided in this part,*

1 *including Title IV of the Sacramento and San Joaquin Val-*
2 *leys Water Reliability Act, this part preempts and super-*
3 *sedes any State law, regulation, or requirement that im-*
4 *poses more restrictive requirements or regulations on the ac-*
5 *tivities authorized under this part. Nothing in this part*
6 *shall alter or modify the obligations, if any, of the Friant*
7 *Division, Hidden Unit, and Buchanan Unit of the Central*
8 *Valley Project, or other water users on the San Joaquin*
9 *River or its tributaries, under orders issued by the State*
10 *Water Resources Control Board pursuant to the Porter-Co-*
11 *logne Water Quality Control Act (California Water Code*
12 *sections 13000 et seq.). Any such order shall be consistent*
13 *with the congressional authorization for any affected Fed-*
14 *eral facility as it pertains to the Central Valley Project.*

15 “(n) *PROJECT IMPLEMENTATION.—Projects to imple-*
16 *ment this title shall be phased such that each project shall*
17 *follow the sequencing identified below and include at least*
18 *the—*

19 “(1) *project purpose and need;*

20 “(2) *identification of mitigation measures;*

21 “(3) *appropriate environmental review; and*

22 “(4) *prior to releasing Restoration Flows under*
23 *this part, the Secretary shall—*

24 “(A) *complete the implementation of miti-*
25 *gation measures required; and*

1 “(B) complete implementation of the
2 project.”.

3 **SEC. 205. DISPOSAL OF PROPERTY; TITLE TO FACILITIES.**

4 Section 10005 of the San Joaquin River Restoration
5 Settlement Act (Public Law 111–11) is amended—

6 (1) in subsection (a), by striking “the Settlement
7 authorized by this part” and inserting “this part”;

8 (2) in subsection (b)—

9 (A) in paragraph (1)—

10 (i) by striking “(1) IN GENERAL.—The
11 Secretary” and inserting “The Secretary”;
12 and

13 (ii) by striking “the Settlement author-
14 ized by this part” and inserting “this
15 part”; and

16 (B) by striking paragraph (2); and

17 (3) in subsection (c)—

18 (A) in paragraph (1), by striking “the Set-
19 tlement” and inserting “this part”;

20 (B) in paragraph (2)—

21 (i) by striking “through the exercise of
22 its eminent domain authority”; and

23 (ii) by striking “the Settlement” and
24 inserting “this part”; and

1 (C) in paragraph (3), by striking “section
2 10009(c)” and inserting “section 10009”.

3 **SEC. 206. COMPLIANCE WITH APPLICABLE LAW.**

4 Section 10006 of the San Joaquin River Restoration
5 Settlement Act (Public Law 111–11) is amended—

6 (1) in subsection (a)—

7 (A) in paragraph (1), by inserting “unless
8 otherwise provided by this part” before the pe-
9 riod at the end; and

10 (B) in paragraph (2), by striking “the Set-
11 tlement” and inserting “this part”;

12 (2) in subsection (b), by inserting “, unless oth-
13 erwise provided by this part” before the period at the
14 end;

15 (3) in subsection (c)—

16 (A) in paragraph (2), by striking “section
17 10004” and inserting “this part”; and

18 (B) in paragraph (3), by striking “the Set-
19 tlement” and inserting “this part”; and

20 (4) in subsection (d)—

21 (A) by inserting “, including without limi-
22 tation to sections 10004(d) and 10004(h)(4) of
23 this part,” after “implementing this part”; and

24 (B) by striking “for implementation of the
25 Settlement”.

1 **SEC. 207. COMPLIANCE WITH CENTRAL VALLEY PROJECT**
2 **IMPROVEMENT ACT.**

3 *Section 10007 of the San Joaquin River Restoration*
4 *Settlement Act (Public Law 111–11) is amended—*

5 *(1) in the matter preceding paragraph (1),*

6 *(A) by striking “the Settlement” and insert-*
7 *ing “enactment of this part”; and*

8 *(B) by inserting: “and the obligations of the*
9 *Secretary and all other parties to protect and*
10 *keep in good condition any fish that may be*
11 *planted or exist below Friant Dam including*
12 *any obligations under section 5937 of the Cali-*
13 *ifornia Fish and Game Code and the public trust*
14 *doctrine, and those of the Secretary and all other*
15 *parties under the Endangered Species Act of*
16 *1973 (16 U.S.C. 1531 et seq.)” before “, pro-*
17 *vided”; and*

18 *(2) in paragraph (1), by striking “, as provided*
19 *in the Settlement”.*

20 **SEC. 208. NO PRIVATE RIGHT OF ACTION.**

21 *Section 10008(a) of the San Joaquin River Restora-*
22 *tion Settlement Act (Public Law 111–11) is amended—*

23 *(1) by striking “not a party to the Settlement”*
24 *after “person or entity” ; and*

25 *(2) by striking “or the Settlement” before the pe-*
26 *riod and inserting “unless otherwise provided by this*

1 *part. Any Central Valley Project long-term water*
 2 *service or repayment contractor within the Friant Di-*
 3 *vision, Hidden unit, or Buchanan Unit adversely af-*
 4 *ected by the Secretary’s failure to comply with sec-*
 5 *tion 10004(a)(3) of this part may bring an action*
 6 *against the Secretary for injunctive relief or damages,*
 7 *or both.”.*

8 **SEC. 209. IMPLEMENTATION.**

9 *Section 10009 of the San Joaquin River Restoration*
 10 *Settlement Act (Public Law 111–11) is amended—*

11 *(1) in the header by striking “; **SETTLEMENT***
 12 ***FUND**”;*

13 *(2) in subsection (a)—*

14 *(A) in paragraph (1)—*

15 *(i) by striking “the Settlement” and*
 16 *inserting “this part”;*

17 *(ii) by striking “, estimated to total”*
 18 *and all that follows through “subsection*
 19 *(b)(1),”;* and

20 *(iii) by striking “, provided; however,”*
 21 *and all that follows through “\$110,000,000*
 22 *of State funds”;*

23 *(B) in paragraph (2)—*

1 (i) in subparagraph (A), by striking
2 “(A) IN GENERAL.—The Secretary” and in-
3 serting “The Secretary”;

4 (ii) by striking subparagraph (B); and
5 (C) in paragraph (3)—

6 (i) by striking “Except as provided in
7 the Settlement, to” and inserting “To”; and

8 (ii) by striking “this Settlement” and
9 inserting “this part”;

10 (3) in subsection (b)(1)—

11 (A) by striking “In addition” through
12 “however, that the” and inserting “The”;

13 (B) by striking “such additional appropria-
14 tions only in amounts equal to”; and

15 (C) by striking “or the Settlement” before
16 the period;

17 (4) in subsection (c)—

18 (A) in paragraph (1)—

19 (i) in the matter preceding subpara-
20 graph (A), by striking “the Settlement” and
21 inserting “this part”;

22 (ii) in subparagraph (C), by striking
23 “from the sale of water pursuant to the Set-
24 tlement, or”; and

1 (iii) in subparagraph (D), by striking
2 “the Settlement” and inserting “this part”;
3 (B) in paragraph (2), by striking “the Set-
4 tlement and” before “this part”; and
5 (5) by striking subsections (d) through (f).

6 **SEC. 210. REPAYMENT CONTRACTS AND ACCELERATION OF**
7 **REPAYMENT OF CONSTRUCTION COSTS.**

8 Section 10010 of the San Joaquin River Restoration
9 Settlement Act (Public Law 111–11) is amended—

10 (1) in subsection (a)—

11 (A) in paragraph (3)(D), by striking “the
12 Settlement and” after “this part”; and

13 (B) in paragraph (4)(C), by striking “the
14 Settlement and” after “this part”;

15 (2) in subsection (c), by striking paragraph (3);

16 (3) in subsection (d)(1), by striking “the Settle-
17 ment” in both places it appears and inserting “this
18 part”;

19 (4) in subsection (e)—

20 (A) in paragraph (1)—

21 (i) by striking “Interim Flows or Res-
22 toration Flows, pursuant to paragraphs 13
23 or 15 of the Settlement” and inserting “Res-
24 toration Flows, pursuant to this part”;

1 (ii) by striking “Interim Flows or” be-
2 fore “Restoration Flows”; and

3 (iii) by striking “the Interim Flows or
4 Restoration Flows or is intended to other-
5 wise facilitate the Water Management Goal,
6 as described in the Settlement” and insert-
7 ing “Restoration Flows”; and

8 (B) in paragraph (2)—

9 (i) by striking “except as provided in
10 paragraph 16(b) of the Settlement” after
11 “Friant Division long-term contractor”;
12 and

13 (ii) by striking “the Interim Flows or
14 Restoration Flows or to facilitate the Water
15 Management Goal” and inserting “Restora-
16 tion Flows”.

17 **SEC. 211. REPEAL.**

18 Section 10011 of the San Joaquin River Restoration
19 Settlement Act (Public Law 111–11) is repealed.

20 **SEC. 212. WATER SUPPLY MITIGATION.**

21 Section 10202(b) of the San Joaquin River Restora-
22 tion Settlement Act (Public Law 111–11) is amended—

23 (1) in paragraph (1), by striking “the Interim or
24 Restoration Flows authorized in part I of this sub-

1 *title” and inserting “Restoration Flows authorized in*
2 *this part”;*

3 (2) *in paragraph (2), by striking “the Interim or*
4 *Restoration Flows authorized in part I of this sub-*
5 *title” and inserting “Restoration Flows authorized in*
6 *this part”;* and

7 (3) *in paragraph (3)—*

8 (A) *in subparagraph (A), by striking “meet*
9 *the Restoration Goal as described in part I of*
10 *this subtitle” and inserting “recover Restoration*
11 *Flows as described in this part”;*

12 (B) *in subparagraph (C)—*

13 (i) *by striking “the Interim or Restora-*
14 *tion Flows authorized in part I of this sub-*
15 *title” and inserting “Restoration Flows au-*
16 *thorized in this part”;* and

17 (ii) *by striking “, and for ensuring ap-*
18 *propriate adjustment in the recovered water*
19 *account pursuant to section 10004(a)(5)”.*

20 **SEC. 213. ADDITIONAL AUTHORITIES.**

21 *Section 10203 of the San Joaquin River Restoration*
22 *Settlement Act (Public Law 111–11) is amended—*

23 (1) *in subsection (b)—*

24 (A) *by striking “section 10004(a)(4)” and*
25 *inserting “section 10004(a)(3)”;* and

1 (B) by striking “, provided” and all that
 2 follows through “section 10009(f)(2)”; and
 3 (2) by striking subsection (c).

4 **TITLE III—REPAYMENT CON-**
 5 **TRACTS AND ACCELERATION**
 6 **OF REPAYMENT OF CON-**
 7 **STRUCTION COSTS**

8 **SEC. 301. REPAYMENT CONTRACTS AND ACCELERATION OF**
 9 **REPAYMENT OF CONSTRUCTION COSTS.**

10 (a) *CONVERSION OF CONTRACTS.—*

11 (1) *Not later than 1 year after enactment, the*
 12 *Secretary of the Interior, upon request of the con-*
 13 *tractor, shall convert all existing long-term Central*
 14 *Valley Project contracts entered under subsection (e)*
 15 *of section 9 of the Act of August 4, 1939 (53 Stat.*
 16 *1196), to a contract under subsection (d) of section 9*
 17 *of said Act (53 Stat. 1195), under mutually agreeable*
 18 *terms and conditions.*

19 (2) *Upon request of the contractor, the Secretary*
 20 *is further authorized to convert, not later than 1 year*
 21 *after enactment, any Central Valley Project long-term*
 22 *contract entered under subsection (c)(2) of section 9*
 23 *of the Act of August 4, 1939 (53 Stat. 1194), to a con-*
 24 *tract under subsection (c)(1) of section 9 of said Act,*
 25 *under mutually agreeable terms and conditions.*

1 (3) *All contracts entered into pursuant to para-*
2 *graph (1) shall—*

3 (A) *require the repayment, either in lump*
4 *sum or by accelerated prepayment, of the re-*
5 *maining amount of construction costs identified*
6 *in the most current version of the Central Valley*
7 *Project Schedule of Irrigation Capital Alloca-*
8 *tions by Contractor, as adjusted to reflect pay-*
9 *ments not reflected in such schedule, and prop-*
10 *erly assignable for ultimate return by the con-*
11 *tractor, no later than January 31, 2013, or if*
12 *made in approximately equal annual install-*
13 *ments, no later than January 31, 2016; such*
14 *amount to be discounted by the Treasury Rate.*
15 *An estimate of the remaining amount of con-*
16 *struction costs as of January 31, 2013, as ad-*
17 *justed, shall be provided by the Secretary of the*
18 *Interior to each contractor no later than 180*
19 *days after enactment;*

20 (B) *require that, notwithstanding subsection*
21 *(c)(2), construction costs or other capitalized*
22 *costs incurred after the effective date of the con-*
23 *verted contract or not reflected in the schedule*
24 *referenced in subparagraph (A), and properly*
25 *assignable to such contractor, shall be repaid in*

1 *not more than 5 years after notification of the*
2 *allocation if such amount is a result of a collec-*
3 *tive annual allocation of capital costs to the con-*
4 *tractors exercising contract conversions under*
5 *this subsection of less than \$5,000,000. If such*
6 *amount is \$5,000,000 or greater, such cost shall*
7 *be repaid as provided by applicable reclamation*
8 *law, provided that the reference to the amount of*
9 *\$5,000,000 shall not be a precedent in any other*
10 *context; and*

11 (C) *provide that power revenues will not be*
12 *available to aid in repayment of construction*
13 *costs allocated to irrigation under the contract.*

14 (4) *All contracts entered into pursuant to para-*
15 *graph (2) shall—*

16 (A) *require the repayment in lump sum of*
17 *the remaining amount of construction costs iden-*
18 *tified in the most current version of the Central*
19 *Valley Project Schedule of Municipal and Indus-*
20 *trial Water Rates, as adjusted to reflect pay-*
21 *ments not reflected in such schedule, and prop-*
22 *erly assignable for ultimate return by the con-*
23 *tractor, no later than January 31, 2016. An esti-*
24 *mate of the remaining amount of construction*
25 *costs as of January 31, 2016, as adjusted, shall*

1 *be provided by the Secretary of the Interior to*
2 *each contractor no later than 180 days after en-*
3 *actment; and*

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

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

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

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

12 *(1) Notwithstanding any repayment obligation*
13 *under subsection (a)(3)(B) or subsection (b), upon a*
14 *contractor's compliance with and discharge of the ob-*
15 *ligation of repayment of the construction costs as pro-*
16 *vided in subsection (a)(3)(A), the ownership and full-*
17 *cost pricing limitations of any provision of Federal*
18 *reclamation law shall not apply to lands in such dis-*
19 *trict.*

20 *(2) Notwithstanding any repayment obligation*
21 *under paragraph (3)(B) or paragraph (4)(B) of sub-*
22 *section (a), or subsection (b), upon a contractor's*
23 *compliance with and discharge of the obligation of re-*
24 *payment of the construction costs as provided in*
25 *paragraphs (3)(A) and (4)(A) of subsection (a), such*

1 contractor shall continue to pay applicable operation
2 and maintenance costs and other charges applicable
3 to such repayment contracts pursuant to the then-cur-
4 rent rate-setting policy and applicable law.

5 (d) *CERTAIN REPAYMENT OBLIGATIONS NOT AL-*
6 *TERED.*—Implementation of the provisions of this section
7 shall not alter the repayment obligation of any other long-
8 term water service or repayment contractor receiving water
9 from the Central Valley Project, or shift any costs that
10 would otherwise have been properly assignable to any con-
11 tractors absent this section, including operations and main-
12 tenance costs, construction costs, or other capitalized costs
13 incurred after the date of enactment of this Act, to other
14 such contractors.

15 (e) *STATUTORY INTERPRETATION.*—Nothing in this
16 part shall be construed to affect the right of any long-term
17 contractor to use a particular type of financing to make
18 the payments required in paragraph (3)(A) or paragraph
19 (4)(A) of subsection (a).

20 (f) *DEFINITION OF TREASURY RATE.*—For purposes of
21 this section, “Treasury Rate” shall be defined as the 20-
22 year Constant Maturity Treasury rate published by the
23 United States Department of the Treasury as of October
24 1, 2012.

1 **TITLE IV—BAY-DELTA WATER-**
2 **SHED WATER RIGHTS PRES-**
3 **ERVATION AND PROTECTION**

4 **SEC. 401. WATER RIGHTS AND AREA-OF-ORIGIN PROTEC-**
5 **TIONS.**

6 *Notwithstanding the provisions of this Act, Federal*
7 *reclamation law, or the Endangered Species Act of 1973*
8 *(16 U.S.C. 1531 et seq.)—*

9 *(1) the Secretary of the Interior (“Secretary”) is*
10 *directed, in the operation of the Central Valley*
11 *Project, to strictly adhere to State water rights law*
12 *governing water rights priorities by honoring water*
13 *rights senior to those belonging to the Central Valley*
14 *Project, regardless of the source of priority;*

15 *(2) the Secretary is directed, in the operation of*
16 *the Central Valley Project, to strictly adhere to and*
17 *honor water rights and other priorities that are ob-*
18 *tained or exist pursuant to the provisions of Cali-*
19 *ifornia Water Code sections 10505, 10505:5, 11128,*
20 *11460, and 11463; and sections 12200 to 12220, in-*
21 *clusive; and*

22 *(3) any action that affects the diversion of water*
23 *or involves the release of water from any water stor-*
24 *age facility taken by the Secretary or the Secretary*
25 *of the Department of Commerce to conserve, enhance,*

1 *recover, or otherwise protect any species listed under*
2 *the Endangered Species Act of 1973 (16 U.S.C. 1531*
3 *et seq.) shall be applied in a manner that is con-*
4 *sistent with water right priorities established by State*
5 *law.*

6 **SEC. 402. SACRAMENTO RIVER SETTLEMENT CONTRACTS.**

7 *In the implementation of the Endangered Species Act*
8 *of 1973 (16 U.S.C. 1531 et seq.), in the Bay-Delta and on*
9 *the Sacramento River, the Secretary and the Secretary of*
10 *Commerce are directed to apply any limitations on the op-*
11 *eration of the Central Valley Project or to formulate any*
12 *“reasonable prudent alternative” associated with the oper-*
13 *ation of the Central Valley Project in a manner that strictly*
14 *adheres to and applies the water rights priorities for*
15 *“Project Water” and “Base Supply” provided for in the*
16 *Sacramento River Settlement Contracts. Article 3(i) of the*
17 *Sacramento River Settlement Contracts shall not be utilized*
18 *by the United States as means to provide shortages to the*
19 *Sacramento River Settlement Contracts that are different*
20 *than those provided for in Article 5(a) of those contracts.*

21 **SEC. 403. SACRAMENTO RIVER WATERSHED WATER SERV-**
22 **ICE CONTRACTORS.**

23 *(a) IN GENERAL.—Subject to subsection (b) and the*
24 *absolute priority of the Sacramento River Settlement Con-*
25 *tractors to Sacramento River supplies over Central Valley*

1 *Project diversions and deliveries to other contractors, the*
2 *Secretary is directed, in the operation of the Central Valley*
3 *Project, to allocate water provided for irrigation purposes*
4 *to existing Central Valley Project agricultural water service*
5 *contractors within the Sacramento River Watershed in*
6 *compliance with the following:*

7 (1) *Not less than 100% of their contract quan-*
8 *tities in a “Wet” year.*

9 (2) *Not less than 100% of their contract quan-*
10 *tities in an “Above Normal” year.*

11 (3) *Not less than 100% of their contract quan-*
12 *tities in a “Below Normal” year.*

13 (4) *Not less than 75% of their contract quan-*
14 *tities in a “Dry” year.*

15 (5) *Not less than 50% of their contract quan-*
16 *tities in a “Critically Dry” year.*

17 (b) *PROTECTION OF MUNICIPAL AND INDUSTRIAL SUP-*
18 *PLIES.—Nothing in subsection (a) shall be deemed to (i)*
19 *modify any provision of a water service contract that ad-*
20 *dresses municipal and industrial water shortage policies of*
21 *the Secretary, (ii) affect or limit the authority of the Sec-*
22 *retary to adopt or modify municipal and industrial water*
23 *shortage policies, (iii) affect or limit the authority of the*
24 *Secretary to implement municipal and industrial water*
25 *shortage policies, or (iv) affect allocations to Central Valley*

1 *Project municipal and industrial contractors pursuant to*
2 *such policies. Neither subsection (a) nor the Secretary's im-*
3 *plementation of subsection (a) shall constrain, govern or af-*
4 *fect, directly or indirectly, the operations of the Central Val-*
5 *ley Project's American River Division or any deliveries*
6 *from that Division, its units or its facilities.*

7 *(c) DEFINITIONS.—In this section:*

8 *(1) The term “existing Central Valley Project ag-*
9 *ricultural water service contractors within the Sac-*
10 *ramento River Watershed” means water service con-*
11 *tractors within the Shasta, Trinity, and Sacramento*
12 *River Divisions of the Central Valley Project, that*
13 *have a water service contract in effect, on the date of*
14 *the enactment of this section, that provides water for*
15 *irrigation.*

16 *(2) The year type terms used in subsection (a)*
17 *have the meaning given those year types in the Sac-*
18 *ramento Valley Water Year Type (40–30–30) Index.*

19 **SEC. 404. NO REDIRECTED ADVERSE IMPACTS.**

20 *The Secretary shall insure that there are no redirected*
21 *adverse water supply or fiscal impacts to those within the*
22 *Sacramento River watershed or to the State Water Project*
23 *arising from the Secretary's operation of the Central Valley*
24 *Project to meet legal obligations imposed by or through any*
25 *State or Federal agency, including, but not limited to those*

1 *legal obligations emanating from the Endangered Species*
2 *Act of 1973 (16 U.S.C. 1531 et seq.) or this Act, or actions*
3 *or activities implemented to meet the twin goals of improv-*
4 *ing water supply or addressing environmental needs of the*
5 *Bay Delta.*

6 **TITLE V—MISCELLANEOUS**

7 **SEC. 501. PRECEDENT.**

8 *Congress finds and declares that—*

9 *(1) coordinated operations between the Central*
10 *Valley Project and the State Water Project, previously*
11 *requested and consented to by the State of California*
12 *and the Federal Government, require assertion of Fed-*
13 *eral supremacy to protect existing water rights*
14 *throughout the system; and*

15 *(2) these circumstances are unique to California.*
16 *Therefore, nothing in this Act shall serve as precedent in*
17 *any other State.*

Union Calendar No. 280

112TH CONGRESS
2^D Session

H. R. 1837

[Report No. 112-403]

A BILL

To address certain water-related concerns on the
San Joaquin River, and for other purposes.

FEBRUARY 27, 2012

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed