

## Calendar No. 332

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**H. R. 1837**


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 IN THE SENATE OF THE UNITED STATES

MARCH 1, 2012

Received

MARCH 2, 2012

Read the first time

MARCH 5, 2012

Read the second time and placed on the calendar

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**AN ACT**

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Sacramento-San Joaquin Valley Water Reliability Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for  
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CENTRAL VALLEY PROJECT WATER RELIABILITY

- Sec. 101. Amendment to purposes.
- Sec. 102. Amendment to definition.
- Sec. 103. Contracts.
- Sec. 104. Water transfers, improved water management, and conservation.
- Sec. 105. Fish, wildlife, and habitat restoration.
- Sec. 106. Restoration fund.
- Sec. 107. Additional authorities.
- Sec. 108. Bay-Delta Accord.
- Sec. 109. Natural and artificially spawned species.
- Sec. 110. Authorized service area.
- Sec. 111. Regulatory streamlining.

#### TITLE II—SAN JOAQUIN RIVER RESTORATION

- Sec. 201. Repeal of the San Joaquin River settlement.
- Sec. 202. Purpose.
- Sec. 203. Definitions.
- Sec. 204. Implementation of restoration.
- Sec. 205. Disposal of property; title to facilities.
- Sec. 206. Compliance with applicable law.
- Sec. 207. Compliance with Central Valley Project Improvement Act.
- Sec. 208. No private right of action.
- Sec. 209. Implementation.
- Sec. 210. Repayment contracts and acceleration of repayment of construction costs.
- Sec. 211. Repeal.
- Sec. 212. Water supply mitigation.
- Sec. 213. Additional Authorities.

#### TITLE III—REPAYMENT CONTRACTS AND ACCELERATION OF REPAYMENT OF CONSTRUCTION COSTS

- Sec. 301. Repayment contracts and acceleration of repayment of construction costs.

#### TITLE IV—BAY-DELTA WATERSHED WATER RIGHTS PRESERVATION AND PROTECTION

- Sec. 401. Water rights and area-of-origin protections.
- Sec. 402. Sacramento River settlement contracts.
- Sec. 403. Sacramento River Watershed Water Service Contractors.
- Sec. 404. No redirected adverse impacts.

#### TITLE V—MISCELLANEOUS

- Sec. 501. Precedent.

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—

1           (1) in subsection (f), by striking the period at  
2           the end; and

3           (2) by adding at the end the following:

4           “(g) to ensure that water dedicated to fish and wild-  
5 life purposes by this title is replaced and provided to Cen-  
6 tral Valley Project water contractors by December 31,  
7 2016, at the lowest cost reasonably achievable; and

8           “(h) to facilitate and expedite water transfers in ac-  
9 cordance with this Act.”.

10 **SEC. 102. AMENDMENT TO DEFINITION.**

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

13           (1) by amending subsection (a) to read as fol-  
14 lows:

15           “(a) the term ‘anadromous fish’ means those native  
16 stocks of salmon (including steelhead) and sturgeon that,  
17 as of October 30, 1992, were present in the Sacramento  
18 and San Joaquin Rivers and their tributaries and ascend  
19 those rivers and their tributaries to reproduce after matur-  
20 ing in San Francisco Bay or the Pacific Ocean;”;

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

22           (3) in subsection (m), by striking the period  
23 and inserting “; and”, and

24           (4) by adding at the end the following:

1 “(n) the term ‘reasonable flows’ means water flows  
2 capable of being maintained taking into account com-  
3 peting consumptive uses of water and economic, environ-  
4 mental, and social factors.”.

5 **SEC. 103. CONTRACTS.**

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

8 (1) in the heading, by striking “**LIMITATION**  
9 **ON CONTRACTING AND CONTRACT REFORM**”  
10 and inserting “**CONTRACTS**”; and

11 (2) by striking the language of the section and  
12 by adding:

13 “(a) **RENEWAL OF EXISTING LONG-TERM CON-**  
14 **TRACTS.**—Upon request of the contractor, the Secretary  
15 shall renew any existing long-term repayment or water  
16 service contract that provides for the delivery of water  
17 from the Central Valley Project for a period of 40 years.

18 “(b) **ADMINISTRATION OF CONTRACTS.**—Except as  
19 expressly provided by this Act, any existing long-term re-  
20 payment or water service contract for the delivery of water  
21 from the Central Valley Project shall be administered pur-  
22 suant to the Act of July 2, 1956 (70 Stat. 483).

23 “(c) **DELIVERY CHARGE.**—Beginning on the date of  
24 the enactment of this Act, a contract entered into or re-  
25 newed pursuant to this section shall include a provision

1 that requires the Secretary to charge the other party to  
2 such contract only for water actually delivered by the Sec-  
3 retary.”.

4 **SEC. 104. WATER TRANSFERS, IMPROVED WATER MANAGE-**  
5 **MENT, AND CONSERVATION.**

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

8 (1) In subsection (a)—

9 (A) by inserting before “Except as pro-  
10 vided herein” the following: “The Secretary  
11 shall take all necessary actions to facilitate and  
12 expedite transfers of Central Valley Project  
13 water in accordance with this Act or any other  
14 provision of Federal reclamation law and the  
15 National Environmental Policy Act of 1969.”;

16 (B) in paragraph (1)(A), by striking “to  
17 combination” and inserting “or combination”;

18 (C) in paragraph (2), by adding at the end  
19 the following:

20 “(E) The contracting district from which  
21 the water is coming, the agency, or the Sec-  
22 retary shall determine if a written transfer pro-  
23 posal is complete within 45 days after the date  
24 of submission of such proposal. If such district  
25 or agency or the Secretary determines that such

1           proposal is incomplete, such district or agency  
2           or the Secretary shall state with specificity  
3           what must be added to or revised in order for  
4           such proposal to be complete.

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

12          (D) by adding at the end the following:

13          “(4) Notwithstanding any other provision of  
14          Federal reclamation law—

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

22                 “(B) this title shall not supersede or re-  
23                 voke the authority to transfer, exchange, bank,  
24                 or recharge Central Valley Project water that  
25                 existed prior to October 30, 1992.”.

1 (2) In subsection (b)—

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

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

13 (3) By striking subsection (d).

14 (4) By redesignating subsections (e) and (f) as  
15 subsections (d) and (e), respectively.

16 (5) By amending subsection (e)(as redesignated  
17 by paragraph (4))—

18 (A) by striking “as a result of the in-  
19 creased repayment” and inserting “that exceed  
20 the cost-of-service”;

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

23 (C) by striking “, and all increased reve-  
24 nues received by the Secretary as a result of the

1 increased water prices established under sub-  
2 section 3405(d) of this section.”.

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

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

6 (1) In subsection (b)—

7 (A) in paragraph (1)(B)—

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

10 (ii) by inserting “reasonable water”  
11 after “to provide”;

12 (iii) by striking “anadromous fish, ex-  
13 cept that such” and inserting “anad-  
14 romous fish. Such”;

15 (iv) by striking “Instream flow” and  
16 inserting “Reasonable instream flow”;

17 (v) by inserting “and the National  
18 Marine Fisheries Service” after “United  
19 States Fish and Wildlife Service”; and

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

23 (B) in paragraph (2)—

24 (i) by striking “primary purpose” and  
25 inserting “purposes”;



1 (ii) by striking “but not limited to”  
2 before “additional obligations”; and

3 (iii) by adding after the period the fol-  
4 lowing: “All Central Valley Project water  
5 used for the purposes specified in this  
6 paragraph shall be credited to the quantity  
7 of Central Valley Project yield dedicated  
8 and managed under this paragraph by de-  
9 termining how the dedication and manage-  
10 ment of such water would affect the deliv-  
11 ery capability of the Central Valley Project  
12 during the 1928 to 1934 drought period  
13 after fishery, water quality, and other flow  
14 and operational requirements imposed by  
15 terms and conditions existing in licenses,  
16 permits, and other agreements pertaining  
17 to the Central Valley Project under appli-  
18 cable State or Federal law existing on Oc-  
19 tober 30, 1992, have been met. To the full-  
20 est extent possible and in accordance with  
21 section 3411, Central Valley Project water  
22 dedicated and managed pursuant to this  
23 paragraph shall be reused to fulfill the  
24 Secretary’s remaining contractual obliga-  
25 tions to provide Central Valley Project

1 water for agricultural or municipal and in-  
2 dustrial purposes.”;

3 (C) by amending paragraph (2)(C) to read:

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

14 (2) By adding at the end the following:

15 “(i) SATISFACTION OF PURPOSES.—  
16 By pursuing the activities described in this  
17 section, the Secretary shall be deemed to  
18 have met the mitigation, protection, res-  
19 toration, and enhancement purposes of this  
20 title.”.

21 **SEC. 106. RESTORATION FUND.**

22 (a) IN GENERAL.—Section 3407(a) of the Central  
23 Valley Project Improvement Act (106 Stat. 4726) is  
24 amended 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 convey-  
14                   ance of non-Central Valley Project water pursu-  
15                   ant to Federal reclamation laws; or

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

19           “(B) for any water that is delivered with the  
20           sole 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  
2 follows 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  
6 the Central Valley Project Improvement Act is amended  
7 by inserting “, or after October 1, 2013, \$4 per megawatt-  
8 hour for Central Valley Project power sold to power con-  
9 tractors (October 2013 price levels)” after “\$12 per acre-  
10 foot (October 1992 price levels) for municipal and indus-  
11 trial water sold and delivered by the Central Valley  
12 Project”.

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

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

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

1 deposited into the Restoration Fund during the preceding  
2 fiscal year. Such plan shall contain a cost-effectiveness  
3 analysis of each expenditure.

4 “(h) ADVISORY BOARD.—

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

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

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

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

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

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

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

18 **SEC. 107. ADDITIONAL AUTHORITIES.**

19          (a) AUTHORITY FOR CERTAIN ACTIVITIES.—Section  
20          3408(c) of the Central Valley Project Improvement Act  
21          (106 Stat. 4728) is amended to read as follows:

22          “(c) CONTRACTS FOR ADDITIONAL STORAGE AND  
23          DELIVERY OF WATER.—

24                  “(1) IN GENERAL.—The Secretary is authorized  
25          to enter into contracts pursuant to Federal reclama-

1 tion law and this title with any Federal agency, Cali-  
2 fornia water user or water agency, State agency, or  
3 private organization for the exchange, impoundment,  
4 storage, carriage, and delivery of nonproject water  
5 for domestic, municipal, industrial, fish and wildlife,  
6 and any other beneficial purpose.

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

10 “(3) AUTHORITY FOR CERTAIN ACTIVITIES.—  
11 The Secretary shall use the authority granted by  
12 this subsection in connection with requests to ex-  
13 change, impound, store, carry, or deliver nonproject  
14 water using Central Valley Project facilities for any  
15 beneficial purpose.

16 “(4) RATES.—The Secretary shall develop rates  
17 not to exceed the amount required to recover the  
18 reasonable costs incurred by the Secretary in con-  
19 nection with a beneficial purpose under this sub-  
20 section. Such rates shall be charged to a party using  
21 Central Valley Project facilities for such purpose.  
22 Such costs shall not include any donation or other  
23 payment to the Restoration Fund.

24 “(5) CONSTRUCTION.—This subsection shall be  
25 construed and implemented to facilitate and encour-

1       age the use of Central Valley Project facilities to ex-  
2       change, impound, store, carry, or deliver nonproject  
3       water for any beneficial purpose.”.

4       (b) REPORTING REQUIREMENTS.—Section 3408(f) of  
5       the Central Valley Project Improvement Act (106 Stat.  
6       4729) is amended—

7             (1) by striking “Interior and Insular Affairs  
8             and the Committee on Merchant Marine and Fish-  
9             eries” and inserting “Natural Resources”;

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

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

18       (c) PROJECT YIELD INCREASE.—Section 3408(j) of  
19       the Central Valley Project Improvement Act (106 Stat.  
20       4730) is amended as follows:

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

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



1           (3) By striking “needs, the Secretary,” and all  
2 that follows through “submit to the Congress, a”  
3 and inserting “needs, the Secretary, on a priority  
4 basis and not later than September 30, 2013, shall  
5 submit to 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  
9 (except for the construction of new facilities which  
10 shall not be limited by that deadline), the water of  
11 the Central Valley Project by the amount dedicated  
12 and managed for fish and wildlife purposes under  
13 this title and otherwise required to meet the pur-  
14 poses of the Central Valley Project including satis-  
15 fying contractual obligations. The plan required by  
16 this subsection shall include recommendations on ap-  
17 propriate cost-sharing arrangements and authorizing  
18 legislation or other measures needed to implement  
19 the intent, purposes, and provisions of this sub-  
20 section and a description of how the Secretary in-  
21 tends to use the following options—”.

22           (5) In subparagraph (A), by inserting “and  
23 construction of new water storage facilities” before  
24 the 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 sub-  
5 section 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 Sec-  
11 retary shall implement the plan required by para-  
12 graph (1) commencing on October 1, 2013. In order  
13 to carry out this subsection, the Secretary shall co-  
14 ordinate with the State of California in imple-  
15 menting measures for the long-term resolution of  
16 problems in the San Francisco Bay/Sacramento-San  
17 Joaquin Delta Estuary.

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

1 achieves an increase in the annual delivery capability  
2 of the Central Valley Project by 800,000 acre-feet.”.

3 (d) TECHNICAL CORRECTION.—Section 3408(h) of  
4 the Central Valley Project Improvement Act (106 Stat.  
5 4729) is amended—

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

8 (2) in paragraph (2), by striking “paragraph  
9 (h)(i)” and inserting “paragraph (1)”.

10 (e) WATER STORAGE PROJECT CONSTRUCTION.—

11 The Secretary, acting through the Commissioner of the  
12 Bureau of Reclamation, may partner or enter into an  
13 agreement on the water storage projects identified in sec-  
14 tion 103(d)(1) of the Water Supply Reliability, and Envi-  
15 ronmental Improvement Act (Public Law 108–361)(and  
16 Acts supplemental and amendatory to the Act) with local  
17 joint powers authorities formed pursuant to State law by  
18 irrigation districts and other local water districts and local  
19 governments within the applicable hydrologic region, to  
20 advance these projects. No additional Federal funds are  
21 authorized for the activities authorized in sections  
22 103(d)(1)(A)(i), 103(d)(1)(A)(ii), and 103(d)(1)(A)(iii) of  
23 Public Law 108–361. However, each water storage project  
24 under sections 103(d)(1)(A)(i), 103(d)(1)(A)(ii), and  
25 103(d)(1)(A)(iii) of Public Law 108–361 is authorized for

1 construction if non-Federal funds are used for financing  
2 and constructing the project.

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

4 (a) CONGRESSIONAL DIRECTION REGARDING CEN-  
5 TRAL VALLEY PROJECT AND CALIFORNIA STATE WATER  
6 PROJECT OPERATIONS.—The Central Valley Project and  
7 the State Water Project shall be operated pursuant to the  
8 water quality standards and operational constraints de-  
9 scribed in the “Principles for Agreement on the Bay-Delta  
10 Standards Between the State of California and the Fed-  
11 eral Government” dated December 15, 1994, and such op-  
12 erations shall proceed without regard to the Endangered  
13 Species Act of 1973 (16 U.S.C. 1531 et seq.) or any other  
14 law pertaining to the operation of the Central Valley  
15 Project and the California State Water Project. Imple-  
16 mentation of this section shall be in strict conformance  
17 with the “Principles for Agreement on the Bay-Delta  
18 Standards Between the State of California and the Fed-  
19 eral Government” dated December 15, 1994.

20 (b) APPLICATION OF LAWS TO OTHERS.—Neither a  
21 Federal department nor the State of California, including  
22 any agency or board of the State of California, shall im-  
23 pose on any water right obtained pursuant to State law,  
24 including a pre-1914 appropriative right, any condition  
25 that restricts the exercise of that water right in order to

1 conserve, enhance, recover or otherwise protect any species  
2 that is affected by operations of the Central Valley Project  
3 or California State Water Project. Nor shall the State of  
4 California, including any agency or board of the State of  
5 California, restrict the exercise of any water right obtained  
6 pursuant to State law, including a pre-1914 appropriative  
7 right, in order to protect, enhance, or restore under the  
8 Public Trust Doctrine any public trust value. Implementa-  
9 tion of the “Principles for Agreement on the Bay-Delta  
10 Standards Between the State of California and the Fed-  
11 eral Government” dated December 15, 1994, shall be in  
12 strict compliance with the water rights priority system and  
13 statutory protections for areas of origin.

14 (c) COSTS.—No cost associated with the implementa-  
15 tion of this section shall be imposed directly or indirectly  
16 on any Central Valley Project contractor, or any other per-  
17 son or entity, unless such costs are incurred on a voluntary  
18 basis.

19 (d) NATIVE SPECIES PROTECTION.—California law is  
20 preempted with respect to any restriction on the quantity  
21 or size of nonnative fish taken or harvested that preys  
22 upon one or more native fish species that occupy the Sac-  
23 ramento and San Joaquin Rivers and their tributaries or  
24 the Sacramento-San Joaquin Rivers Delta.

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

2       After the date of the enactment of this title, and re-  
3 gardless of the date of listing, the Secretaries of the Inte-  
4 rior and Commerce shall not distinguish between natural-  
5 spawned and hatchery-spawned or otherwise artificially  
6 propagated strains of a species in making any determina-  
7 tion under the Endangered Species Act of 1973 (16  
8 U.S.C. 1531 et seq.) that relates to any anadromous fish  
9 species present in the Sacramento and San Joaquin Rivers  
10 or their tributaries and ascend those rivers and their trib-  
11 utaries to reproduce after maturing in San Francisco Bay  
12 or the Pacific Ocean.

13 **SEC. 110. AUTHORIZED SERVICE AREA.**

14       The authorized service area of the Central Valley  
15 Project shall include the area within the boundaries of the  
16 Kettleman City Community Services District, California,  
17 as those boundaries exist on the date of the enactment  
18 of this title. Notwithstanding the provisions of the Act of  
19 October 30, 1992 (Public Law 102-575, 106 Stat. 4600  
20 et seq.), upon enactment of this title, the Secretary is au-  
21 thorized and directed to enter into a long-term contract  
22 in accordance with the reclamation laws with the  
23 Kettleman City Community Services District, California,  
24 for the delivery of up to 900 acre-feet of Central Valley  
25 Project water for municipal and industrial use. The Sec-  
26 retary may temporarily reduce deliveries of the quantity

1 of water made available pursuant to up to 25 percent of  
2 such total whenever reductions due to hydrologic cir-  
3 cumstances are imposed upon agricultural deliveries of  
4 Central Valley Project water. If any additional infrastruc-  
5 ture or related-costs are needed to implement this section,  
6 such costs shall be the responsibility of the non-Federal  
7 entity.

8 **SEC. 111. REGULATORY STREAMLINING.**

9 (a) **APPLICABILITY OF CERTAIN LAWS.**—Filing of a  
10 Notice of Determination or a Notice of Exemption for any  
11 project, including the issuance of a permit under State  
12 law, related to any project of the CVP or the delivery of  
13 water therefrom in accordance with the California Envi-  
14 ronmental Quality Act shall be deemed to meet the re-  
15 quirements of section 102(2)(C) of the National Environ-  
16 mental Protection Act of 1969 (42 U.S.C. 4332(2)(C)) for  
17 that project or permit.

18 (b) **CONTINUATION OF PROJECT.**—The Bureau of  
19 Reclamation shall not be required to cease or modify any  
20 major Federal action or other activity related to any  
21 project of the CVP or the delivery of water there from  
22 pending completion of judicial review of any determination  
23 made under the National Environmental Protection Act  
24 of 1969 (42 U.S.C. 4332(2)(C)).

1 (c) PROJECT DEFINED.—For the purposes of this  
2 section:

3 (1) CVP.—The term “CVP” means the Central  
4 Valley Project.

5 (2) PROJECT.—The term “project”—

6 (A) means an activity that—

7 (i) is undertaken by a public agency,  
8 funded by a public agency, or that requires  
9 an issuance of a permit by a public agency;

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

12 (iii) may be subject to several discre-  
13 tionary approvals by governmental agen-  
14 cies;

15 (B) may include construction activities,  
16 clearing or grading of land, improvements to  
17 existing structures, and activities or equipment  
18 involving the issuance of a permit; or

19 (C) as defined under the California Envi-  
20 ronmental Quality Act in section 21065 of the  
21 California Public Resource Code.



1     **TITLE II—SAN JOAQUIN RIVER**  
2                     **RESTORATION**

3     **SEC. 201. REPEAL OF THE SAN JOAQUIN RIVER SETTLE-**  
4                     **MENT.**

5             As of the date of enactment of this title, the Secretary  
6 shall cease any action to implement the Stipulation of Set-  
7 tlement (Natural Resources Defense Council, et al. v. Kirk  
8 Rodgers, et al., Eastern District of California, No. Civ.  
9 S–88–1658 LKK/GGH).

10    **SEC. 202. PURPOSE.**

11             Section 10002 of the San Joaquin River Restoration  
12 Settlement Act (Public Law 111–11) is amended by strik-  
13 ing “implementation of the Settlement” and inserting  
14 “restoration of the San Joaquin River”.

15    **SEC. 203. DEFINITIONS.**

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

18                     (1) by striking paragraph (1) and inserting the  
19 following:

20                     “(1) The term ‘Restoration Flows’ means the  
21 additional water released or bypassed from Friant  
22 Dam to insure that the target flow entering  
23 Mendota Pool, located approximately 62 river miles  
24 downstream from Friant Dam, does not fall below  
25 50 cubic feet per second.”;

1           (2) by striking paragraph (3) and inserting the  
2 following:

3           “(3) The term ‘Water Year’ means March 1  
4 through the last day of February of the following  
5 Calendar Year, both dates inclusive.”; and

6           (3) by adding at the end the following new  
7 paragraph:

8           “(4) The term ‘Critical Water Year’ means  
9 when the total unimpaired runoff at Friant Dam is  
10 less than 400,000 acre-feet, as forecasted as of  
11 March 1 of that water year by the California De-  
12 partment of Water Resources.”.

13 **SEC. 204. IMPLEMENTATION OF RESTORATION.**

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

16           (1) in subsection (a)—

17                   (A) in the matter preceding paragraph (1),  
18 by striking “authorized and directed” and all  
19 that follows through “in the Settlement:” and  
20 inserting “authorized to carry out the fol-  
21 lowing:”;

22                   (B) by striking paragraphs (1), (2), (4),  
23 and (5);

24                   (C) in paragraph (3)—

1 (i) by striking “(3)” and inserting  
2 “(1)”; and

3 (ii) by striking “paragraph 13 of the  
4 Settlement” and inserting “this part”; and

5 (D) by adding at the end the following new  
6 paragraphs:

7 “(2) In each Water Year, commencing in the  
8 Water Year starting on March 1, 2013—

9 “(A) shall modify Friant Dam operations  
10 so as to release the Restoration Flows for that  
11 Water Year, except in any Critical Water Year;

12 “(B) shall ensure that the release of Res-  
13 toration Flows are maintained at the level pre-  
14 scribed by this part, but that Restoration Flows  
15 do not reach downstream of Mendota Pool;

16 “(C) shall release the Restoration Flows in  
17 a manner that improves the fishery in the San  
18 Joaquin River below Friant Dam, but upstream  
19 of Gravelly Ford in existence as of the date of  
20 the enactment of this part, and the associated  
21 riparian habitat; and

22 “(D) may, without limiting the actions re-  
23 quired under paragraphs (A) and (C) and sub-  
24 ject to subsections 10004(a)(3) and 10004(l),  
25 use the Restoration Flows to enhance or restore

1 a warm water fishery downstream of Gravelly  
2 Ford to and including Mendota Pool, if the Sec-  
3 retary determines that it is reasonable, prudent,  
4 and feasible to do so; and

5 “(3) Not later than 1 year after the date of the  
6 enactment of this section, the Secretary shall develop  
7 and implement, in cooperation with the State of  
8 California, a reasonable plan, to fully recirculate, re-  
9 capture, reuse, exchange, or transfer all Restoration  
10 Flows and provide such recirculated, recaptured, re-  
11 used, exchanged, or transferred flows to those con-  
12 tractors within the Friant Division, Hidden Unit,  
13 and Buchanan Unit of the Central Valley Project  
14 that relinquished the Restoration Flows so recir-  
15 culated, recaptured, reused, exchanged, or trans-  
16 ferred. Such a plan shall address any impact on  
17 ground water resources within the service area of  
18 the Friant Division, Hidden Unit, and Buchanan  
19 Unit of the Central Valley Project and mitigation  
20 may include ground water banking and recharge  
21 projects. Such a plan shall not impact the water  
22 supply or water rights of any entity outside the  
23 Friant Division, Hidden unit, and Buchanan Unit of  
24 the Central Valley Project. Such a plan shall be sub-  
25 ject to applicable provisions of California water law

1 and the Secretary’s use of Central Valley Project fa-  
2 cilities to make Project water (other than water re-  
3 leased from Friant Dam pursuant to this part) and  
4 water acquired through transfers available to exist-  
5 ing south-of-Delta Central Valley Project contrac-  
6 tors.”;

7 (2) in subsection (b)—

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

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

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

14 (4) by striking subsection (d) and inserting the  
15 following:

16 “(d) MITIGATION OF IMPACTS.—Prior to October 1,  
17 2013, the Secretary shall identify—

18 “(1) the impacts associated with the release of  
19 Restoration Flows prescribed in this part;

20 “(2) the measures which shall be implemented  
21 to mitigate impacts on adjacent and downstream  
22 water users, landowners and agencies as a result of  
23 Restoration Flows prescribed in this part; and

24 “(3) prior to the implementation of decisions or  
25 agreements to construct, improve, operate, or main-

1       tain facilities that the Secretary determines are  
2       needed to implement this part, the Secretary shall  
3       implement all mitigations measures identified in sub-  
4       section (d)(2) before Restoration Flows are com-  
5       menced.”;

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

8               (6) in subsection (f), by striking “the Settle-  
9       ment” and all that follows through “section 10011”  
10       and insert “this part”;

11              (7) in subsection (g)—

12                   (A) by striking “the Settlement and” be-  
13       fore this part; and

14                   (B) by striking “or exchange contract” and  
15       inserting “exchange contract, or water rights  
16       settlement or holding contracts”;

17              (8) in subsection (h)—

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

19                   (B) in paragraph (1)—

20                           (i) in the matter preceding subpara-  
21       graph (A), by striking “Interim Flows  
22       under the Settlement” and inserting “Res-  
23       toration Flows under this part”;

24                           (ii) in subparagraph (C)—

1 (I) in clause (i), by striking “In-  
2 terim” and inserting “Restoration”;  
3 and

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

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

8 (iv) by striking subparagraph (E);

9 (C) in paragraph (2)—

10 (i) by striking “Interim” and insert-  
11 ing “Restoration”;

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

13 (iii) by striking “(B) exceed” and in-  
14 serting “exceed”;

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

17 (E) by striking paragraph (4) and insert-  
18 ing the following:

19 “(4) CLAIMS.—Within 60 days of enactment of  
20 this Act the Secretary shall promulgate a rule estab-  
21 lishing a claims process to address current and fu-  
22 ture claims including, but not limited to, ground  
23 water seepage, flooding, or levee instability damages  
24 caused as a result of, arising out of, or related to

1 implementation of subtitle A of title X of Public  
2 Law 111–11.”;

3 (9) in subsection (i)—

4 (A) in paragraph (1)—

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

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

10 (iii) in subparagraph (B)—

11 (I) by striking “additional  
12 amounts authorized to be appro-  
13 priated, including the”; and

14 (II) by striking “; and” and in-  
15 serting a period; and

16 (iv) by striking subparagraph (C); and

17 (B) by striking paragraph (3); and

18 (10) by adding at the end the following new  
19 subsections:

20 “(k) NO IMPACTS ON OTHER INTERESTS.—No Cen-  
21 tral Valley Project or other water other than San Joaquin  
22 River water impounded by or bypassed from Friant Dam  
23 shall be used to implement subsection (a)(2) unless such  
24 use is on a voluntary basis. No cost associated with the  
25 implementation of this section shall be imposed directly



1 or indirectly on any Central Valley Project contractor, or  
2 any other person or entity, outside the Friant Division,  
3 the Hidden Unit, or the Buchanan Unit, unless such costs  
4 are incurred on a voluntary basis. The implementation of  
5 this part shall not result directly or indirectly in any re-  
6 duction in water supplies or water reliability on any Cen-  
7 tral Valley Project contractor, any State Water Project  
8 contractor, or any other person or entity, outside the  
9 Friant Division, the Hidden Unit, or the Buchanan Unit,  
10 unless such reductions or costs are incurred on a voluntary  
11 basis.

12 “(l) PRIORITY.—All actions taken under this part  
13 shall be subordinate to the Secretary’s use of Central Val-  
14 ley Project facilities to make Project water available to  
15 Project contractors, other than water released from the  
16 Friant Dam pursuant to this part.

17 “(m) IN GENERAL.—Notwithstanding section 8 of  
18 the Reclamation Act of 1902, except as provided in this  
19 part, including title IV of the Sacramento and San Joa-  
20 quin Valleys Water Reliability Act, this part preempts and  
21 supersedes any State law, regulation, or requirement that  
22 imposes more restrictive requirements or regulations on  
23 the activities authorized under this part. Nothing in this  
24 part shall alter or modify the obligations, if any, of the  
25 Friant Division, Hidden Unit, and Buchanan Unit of the

1 Central Valley Project, or other water users on the San  
2 Joaquin River or its tributaries, under orders issued by  
3 the State Water Resources Control Board pursuant to the  
4 Porter-Cologne Water Quality Control Act (California  
5 Water Code sections 13000 et seq.). Any such order shall  
6 be consistent with the congressional authorization for any  
7 affected Federal facility as it pertains to the Central Val-  
8 ley Project.

9 “(n) PROJECT IMPLEMENTATION.—Projects to im-  
10 plement this title shall be phased such that each project  
11 shall follow the sequencing identified below and include at  
12 least the—

13 “(1) project purpose and need;

14 “(2) identification of mitigation measures;

15 “(3) appropriate environmental review; and

16 “(4) prior to releasing Restoration Flows under  
17 this part, the Secretary shall—

18 “(A) complete the implementation of miti-  
19 gation measures required; and

20 “(B) complete implementation of the  
21 project.”.

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

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

1 (1) in subsection (a), by striking “the Settle-  
2 ment authorized by this part” and inserting “this  
3 part”;

4 (2) in subsection (b)—

5 (A) in paragraph (1)—

6 (i) by striking “(1) IN GENERAL.—  
7 The Secretary” and inserting “The Sec-  
8 retary”; and

9 (ii) by striking “the Settlement au-  
10 thorized by this part” and inserting “this  
11 part”; and

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

13 (3) in subsection (c)—

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

16 (B) in paragraph (2)—

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

19 (ii) by striking “the Settlement” and  
20 inserting “this part”; and

21 (C) in paragraph (3), by striking “section  
22 10009(c)” and inserting “section 10009”.

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

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

1 (1) in subsection (a)—

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

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

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

10 (3) in subsection (c)—

11 (A) in paragraph (2), by striking “section  
12 10004” and inserting “this part”; and

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

15 (4) in subsection (d)—

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

19 (B) by striking “for implementation of the  
20 Settlement”.

21 **SEC. 207. COMPLIANCE WITH CENTRAL VALLEY PROJECT**

22 **IMPROVEMENT ACT.**

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

25 (1) in the matter preceding paragraph (1),

1 (A) by striking “the Settlement” and in-  
2 serting “enactment of this part”; and

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

13 (2) in paragraph (1), by striking “, as provided  
14 in the Settlement”.

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

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

18 (1) by striking “not a party to the Settlement”  
19 after “person or entity”; and

20 (2) by striking “or the Settlement” before the  
21 period and inserting “unless otherwise provided by  
22 this part. Any Central Valley Project long-term  
23 water service or repayment contractor within the  
24 Friant Division, Hidden unit, or Buchanan Unit ad-  
25 versely affected by the Secretary’s failure to comply

1 with section 10004(a)(3) of this part may bring an  
2 action against the Secretary for injunctive relief or  
3 damages, or both.”.

4 **SEC. 209. IMPLEMENTATION.**

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

7 (1) in the header by striking “; **SETTLEMENT**  
8 **FUND**”;

9 (2) in subsection (a)—

10 (A) in paragraph (1)—

11 (i) by striking “the Settlement” the  
12 first place it appears and inserting “this  
13 part”;

14 (ii) by striking “, estimated to total”  
15 and all that follows through “subsection  
16 (b)(1),”; and

17 (iii) by striking “provided however,”  
18 and all that follows through  
19 “\$110,000,000 of State funds”;

20 (B) in paragraph (2)—

21 (i) in subparagraph (A), by striking  
22 “(A) IN GENERAL.—The Secretary” and  
23 inserting “The Secretary”;

24 (ii) by striking subparagraph (B); and

25 (C) in paragraph (3)—

1 (i) by striking “Except as provided in  
2 the Settlement, to” and inserting “To”;  
3 and

4 (ii) by striking “this Settlement” and  
5 inserting “this part”;

6 (3) in subsection (b)(1)—

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

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

11 (C) by striking “or the Settlement” before  
12 the period;

13 (4) in subsection (c)—

14 (A) in paragraph (1)—

15 (i) in the matter preceding subpara-  
16 graph (A), by striking “the Settlement”  
17 and inserting “this part”;

18 (ii) in subparagraph (C), by striking  
19 “from the sale of water pursuant to the  
20 Settlement, or”; and

21 (iii) in subparagraph (D), by striking  
22 “the Settlement” and inserting “this  
23 part”;

24 (B) in paragraph (2), by striking “the Set-  
25 tlement and” before “this part”; and

1 (5) by striking subsections (d) through (f).

2 **SEC. 210. REPAYMENT CONTRACTS AND ACCELERATION OF**  
3 **REPAYMENT OF CONSTRUCTION COSTS.**

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

6 (1) in subsection (a)—

7 (A) in paragraph (3)(D), by striking “the  
8 Settlement and” before “this part”; and

9 (B) in paragraph (4)(C), by striking “the  
10 Settlement and” before “this part”;

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

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

15 (4) in subsection (e)—

16 (A) in paragraph (1)—

17 (i) by striking “Interim Flows or Res-  
18 toration Flows, pursuant to paragraphs 13  
19 or 15 of the Settlement” and inserting  
20 “Restoration Flows, pursuant to this  
21 part”;

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

24 (iii) by striking “the Interim Flows or  
25 Restoration Flows or is intended to other-



1 wise facilitate the Water Management  
2 Goal, as described in the Settlement” and  
3 inserting “Restoration Flows”; and

4 (B) in paragraph (2)—

5 (i) by striking “except as provided in  
6 paragraph 16(b) of the Settlement” after  
7 “Friant Division long-term contractor”;  
8 and

9 (ii) by striking “the Interim Flows or  
10 Restoration Flows or to facilitate the  
11 Water Management Goal” and inserting  
12 “Restoration Flows”.

13 **SEC. 211. REPEAL.**

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

16 **SEC. 212. WATER SUPPLY MITIGATION.**

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

19 (1) in paragraph (1), by striking “the Interim  
20 or Restoration Flows authorized in part I of this  
21 subtitle” and inserting “Restoration Flows author-  
22 ized in this part”;

23 (2) in paragraph (2), by striking “the Interim  
24 or Restoration Flows authorized in part I of this

1 subtitle” and inserting “Restoration Flows author-  
2 ized in this part”; and

3 (3) in paragraph (3)—

4 (A) in subparagraph (A), by striking  
5 “meet the Restoration Goal as described in part  
6 I of this subtitle” and inserting “recover Res-  
7 toration Flows as described in this part”;

8 (B) in subparagraph (C)—

9 (i) by striking “the Interim or Res-  
10 toration Flows authorized in part I of this  
11 subtitle” and inserting “Restoration Flows  
12 authorized in this part”; and

13 (ii) by striking “, and for ensuring ap-  
14 propriate adjustment in the recovered  
15 water account pursuant to section  
16 10004(a)(5)”.

17 **SEC. 213. ADDITIONAL AUTHORITIES.**

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

20 (1) in subsection (b)—

21 (A) by striking “section 10004(a)(4)” and  
22 inserting “section 10004(a)(3)”; and

23 (B) by striking “, provided” and all that  
24 follows through “section 10009(f)(2)”; and

25 (2) by striking subsection (c).

1 **TITLE III—REPAYMENT CON-**  
2 **TRACTS AND ACCELERATION**  
3 **OF REPAYMENT OF CON-**  
4 **STRUCTION COSTS**

5 **SEC. 301. REPAYMENT CONTRACTS AND ACCELERATION OF**  
6 **REPAYMENT OF CONSTRUCTION COSTS.**

7 (a) CONVERSION OF CONTRACTS.—

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

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

24 (3) All contracts entered into pursuant to para-  
25 graph (1) shall—

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

18          (B) require that, notwithstanding sub-  
19          section (c)(2), construction costs or other cap-  
20          italized costs incurred after the effective date of  
21          the converted contract or not reflected in the  
22          schedule referenced in subparagraph (A), and  
23          properly assignable to such contractor, shall be  
24          repaid in not more than 5 years after notifica-  
25          tion of the allocation if such amount is a result

1 of a collective annual allocation of capital costs  
2 to the contractors exercising contract conver-  
3 sions under this subsection of less than  
4 \$5,000,000. If such amount is \$5,000,000 or  
5 greater, such cost shall be repaid as provided by  
6 applicable reclamation law, provided that the  
7 reference to the amount of \$5,000,000 shall not  
8 be a precedent in any other context; and

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

12 (4) All contracts entered into pursuant to para-  
13 graph (2) shall—

14 (A) require the repayment in lump sum of  
15 the remaining amount of construction costs  
16 identified in the most current version of the  
17 Central Valley Project Schedule of Municipal  
18 and Industrial Water Rates, as adjusted to re-  
19 flect payments not reflected in such schedule,  
20 and properly assignable for ultimate return by  
21 the contractor, no later than January 31, 2016.  
22 An estimate of the remaining amount of con-  
23 struction costs as of January 31, 2016, as ad-  
24 justed, shall be provided by the Secretary of the

1 Interior to each contractor no later than 180  
2 days after enactment; and

3 (B) require that, notwithstanding sub-  
4 section (c)(2), construction costs or other cap-  
5 italized costs incurred after the effective date of  
6 the contract or not reflected in the schedule ref-  
7 erenced in subparagraph (A), and properly as-  
8 signable to such contractor, shall be repaid in  
9 not more than 5 years after notification of the  
10 allocation if such amount is a result of a collec-  
11 tive annual allocation of capital costs to the  
12 contractors exercising contract conversions  
13 under this subsection of less than \$5,000,000.  
14 If such amount is \$5,000,000 or greater, such  
15 cost shall be repaid as provided by applicable  
16 reclamation law, provided that the reference to  
17 the amount of \$5,000,000 shall not be a prece-  
18 dent in any other context.

19 (b) FINAL ADJUSTMENT.—The amounts paid pursu-  
20 ant to subsection (a) shall be subject to adjustment fol-  
21 lowing a final cost allocation by the Secretary of the Inte-  
22 rior upon completion of the construction of the Central  
23 Valley Project. In the event that the final cost allocation  
24 indicates that the costs properly assignable to the con-  
25 tractor are greater than what has been paid by the con-

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

12 (c) APPLICABILITY OF CERTAIN PROVISIONS.—

13 (1) Notwithstanding any repayment obligation  
14 under subsection (a)(3)(B) or subsection (b), upon a  
15 contractor's compliance with and discharge of the  
16 obligation of repayment of the construction costs as  
17 provided in subsection (a)(3)(A), the ownership and  
18 full-cost pricing limitations of any provision of Fed-  
19 eral reclamation law shall not apply to lands in such  
20 district.

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

1 paragraphs (3)(A) and (4)(A) of subsection (a), such  
2 contractor shall continue to pay applicable operation  
3 and maintenance costs and other charges applicable  
4 to such repayment contracts pursuant to the then-  
5 current rate-setting policy and applicable law.

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

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

21 (f) DEFINITION OF TREASURY RATE.—For purposes  
22 of this section, “Treasury Rate” shall be defined as the  
23 20-year Constant Maturity Treasury rate published by the  
24 United States Department of the Treasury as of October  
25 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”)  
10 is 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 fornia 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  
23 water or involves the release of water from any Cen-  
24 tral Valley Project water storage facility taken by  
25 the Secretary or the Secretary of the Department of

1 Commerce to conserve, enhance, recover, or other-  
2 wise protect any species listed under the Endangered  
3 Species Act of 1973 (16 U.S.C. 1531 et seq.) shall  
4 be applied in a manner that is consistent with water  
5 right priorities established by State 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  
9 on the Sacramento River, the Secretary and the Secretary  
10 of Commerce are directed to apply any limitations on the  
11 operation 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 strict-  
14 ly 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 uti-  
18 lized by the United States as means to provide shortages  
19 to the Sacramento River Settlement Contracts that are  
20 different than those provided for in Article 5(a) of those  
21 contracts.

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

24 (a) IN GENERAL.—Subject to subsection (b) and the  
25 absolute priority of the Sacramento River Settlement Con-

1 tractors to Sacramento River supplies over Central Valley  
2 Project diversions and deliveries to other contractors, the  
3 Secretary is directed, in the operation of the Central Val-  
4 ley Project, to allocate water provided for irrigation pur-  
5 poses to existing Central Valley Project agricultural water  
6 service contractors within the Sacramento River Water-  
7 shed in compliance with the following:

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

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

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

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

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

18           (b) PROTECTION OF MUNICIPAL AND INDUSTRIAL  
19 SUPPLIES.—Nothing in subsection (a) shall be deemed to  
20 (i) modify any provision of a water service contract that  
21 addresses municipal and industrial water shortage policies  
22 of the Secretary, (ii) affect or limit the authority of the  
23 Secretary to adopt or modify municipal and industrial  
24 water shortage policies, (iii) affect or limit the authority  
25 of the Secretary to implement municipal and industrial

1 water shortage policies, or (iv) affect allocations to Central  
2 Valley Project municipal and industrial contractors pursu-  
3 ant to such policies. Neither subsection (a) nor the Sec-  
4 retary’s implementation of subsection (a) shall constrain,  
5 govern or affect, directly or indirectly, the operations of  
6 the Central Valley Project’s American River Division or  
7 any deliveries from that Division, its units or its facilities.

8 (c) DEFINITIONS.—In this section:

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

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

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

21 The Secretary shall insure that there are no redi-  
22 rected adverse water supply or fiscal impacts to those  
23 within the Sacramento River or San Joaquin River water-  
24 shed or to the State Water Project arising from the Sec-  
25 retary’s operation of the Central Valley Project to meet

1 legal obligations imposed by or through any State or Fed-  
2 eral agency, including, but not limited to those legal obli-  
3 gations emanating from the Endangered Species Act of  
4 1973 (16 U.S.C. 1531 et seq.) or this Act, or actions or  
5 activities implemented to meet the twin goals of improving  
6 water supply or addressing environmental needs of the  
7 Bay Delta.

## 8 **TITLE V—MISCELLANEOUS**

### 9 **SEC. 501. PRECEDENT.**

10 Congress finds and declares that—

11 (1) coordinated operations between the Central  
12 Valley Project and the State Water Project, pre-  
13 viously requested and consented to by the State of  
14 California and the Federal Government, require as-  
15 sertion of Federal supremacy to protect existing  
16 water rights throughout the system; and

17 (2) these circumstances are unique to Cali-  
18 fornia.

19 Therefore, nothing in this Act shall serve as precedent in  
20 any other State.

Passed the House of Representatives February 29,  
2012.

Attest:

KAREN L. HAAS,

*Clerk.*

Calendar No. 332

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 1837**

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**AN ACT**

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

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MARCH 5, 2012

Read the second time and placed on the calendar