

112TH CONGRESS
2^D SESSION

H. R. 1837

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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

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

4 (b) TABLE OF CONTENTS.—The table of contents for
5 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.

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—

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

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

9 “(g) to ensure that water dedicated to fish and wild-
10 life purposes by this title is replaced and provided to Cen-
11 tral Valley Project water contractors by December 31,
12 2016, at 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
23 and San Joaquin Rivers and their tributaries and ascend

1 those rivers and their tributaries to reproduce after matur-
2 ing in San Francisco Bay or the Pacific Ocean;”;

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

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

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

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

11 **SEC. 103. CONTRACTS.**

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

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

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

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

24 “(b) **ADMINISTRATION OF CONTRACTS.**—Except as
25 expressly provided by this Act, any existing long-term re-

1 payment or water service contract for the delivery of water
2 from the Central Valley Project shall be administered pur-
3 suant to the Act of July 2, 1956 (70 Stat. 483).

4 “(c) DELIVERY CHARGE.—Beginning on the date of
5 the enactment of this Act, a contract entered into or re-
6 newed pursuant to this section shall include a provision
7 that requires the Secretary to charge the other party to
8 such contract only for water actually delivered by the Sec-
9 retary.”.

10 **SEC. 104. WATER TRANSFERS, IMPROVED WATER MANAGE-**
11 **MENT, AND CONSERVATION.**

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

14 (1) In subsection (a)—

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

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

24 (C) in paragraph (2), by adding at the end
25 the following:

1 “(E) The contracting district from which
2 the water is coming, the agency, or the Sec-
3 retary shall determine if a written transfer pro-
4 posal is complete within 45 days after the date
5 of submission of such proposal. If such district
6 or agency or the Secretary determines that such
7 proposal is incomplete, such district or agency
8 or the Secretary shall state with specificity
9 what must be added to or revised in order for
10 such proposal to be complete.

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

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

19 “(4) Notwithstanding any other provision of
20 Federal reclamation law—

21 “(A) the authority to make transfers or ex-
22 changes of, or banking or recharge arrange-
23 ments using, Central Valley Project water that
24 could have been conducted before October 30,
25 1992, is valid, and such transfers, exchanges,

1 or arrangements shall not be subject to, limited,
2 or conditioned by this title; and

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

7 (2) In subsection (b)—

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

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

19 (3) By striking subsection (d).

20 (4) By redesignating subsections (e) and (f) as
21 subsections (d) and (e), respectively.

22 (5) By amending subsection (e)(as redesignated
23 by paragraph (4))—

1 (A) by striking “as a result of the in-
2 creased repayment” and inserting “that exceed
3 the cost-of-service”;

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

6 (C) by striking “, and all increased reve-
7 nues received by the Secretary as a result of the
8 increased water prices established under sub-
9 section 3405(d) of this section,”.

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

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

13 (1) In subsection (b)—

14 (A) in paragraph (1)(B)—

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

17 (ii) by inserting “reasonable water”
18 after “to provide”;

19 (iii) by striking “anadromous fish, ex-
20 cept that such” and inserting “anad-
21 romous fish. Such”;

22 (iv) by striking “Instream flow” and
23 inserting “Reasonable instream flow”;

1 (v) by inserting “and the National
2 Marine Fisheries Service” after “United
3 States Fish and Wildlife Service”; and

4 (vi) by striking “California Depart-
5 ment of Fish and Game” and inserting
6 “United States Geological Survey”;

7 (B) in paragraph (2)—

8 (i) by striking “primary purpose” and
9 inserting “purposes”;

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

12 (iii) by adding after the period the fol-
13 lowing: “All Central Valley Project water
14 used for the purposes specified in this
15 paragraph shall be credited to the quantity
16 of Central Valley Project yield dedicated
17 and managed under this paragraph by de-
18 termining how the dedication and manage-
19 ment of such water would affect the deliv-
20 ery capability of the Central Valley Project
21 during the 1928 to 1934 drought period
22 after fishery, water quality, and other flow
23 and operational requirements imposed by
24 terms and conditions existing in licenses,
25 permits, and other agreements pertaining

1 to the Central Valley Project under appli-
2 cable State or Federal law existing on Oc-
3 tober 30, 1992, have been met. To the full-
4 est extent possible and in accordance with
5 section 3411, Central Valley Project water
6 dedicated and managed pursuant to this
7 paragraph shall be reused to fulfill the
8 Secretary's remaining contractual obliga-
9 tions to provide Central Valley Project
10 water for agricultural or municipal and in-
11 dustrial purposes.”;

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

13 “(C) If by March 15th of any year the
14 quantity of Central Valley Project water fore-
15 casted to be made available to water service or
16 repayment contractors in the Delta Division of
17 the Central Valley Project is below 75 percent
18 of the total quantity of water to be made avail-
19 able under said contracts, the quantity of Cen-
20 tral Valley Project yield dedicated and managed
21 for that year under this paragraph shall be re-
22 duced by 25 percent.”.

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

24 “(i) SATISFACTION OF PURPOSES.—

25 By pursuing the activities described in this

1 section, the Secretary shall be deemed to
2 have met the mitigation, protection, res-
3 toration, and enhancement purposes of this
4 title.”.

5 **SEC. 106. RESTORATION FUND.**

6 (a) IN GENERAL.—Section 3407(a) of the Central
7 Valley Project Improvement Act (106 Stat. 4726) is
8 amended as follows:

9 (1) By inserting “(1) IN GENERAL.—” before
10 “There is hereby”.

11 (2) By striking “Not less than 67 percent” and
12 all that follows through “Monies” and inserting
13 “Monies”.

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

15 “(2) PROHIBITIONS.—The Secretary may not directly
16 or indirectly require a donation or other payment to the
17 Restoration Fund—

18 “(A) or environmental restoration or mitigation
19 fees not otherwise provided by law, as a condition
20 to—

21 “(i) providing for the storage or convey-
22 ance of non-Central Valley Project water pursu-
23 ant to Federal reclamation laws; or

1 “(ii) the delivery of water pursuant to sec-
2 tion 215 of the Reclamation Reform Act of
3 1982 (Public Law 97–293; 96 Stat. 1270); or
4 “(B) for any water that is delivered with the
5 sole intent of groundwater recharge.”.

6 (b) CERTAIN PAYMENTS.—Section 3407(c)(1) of the
7 Central Valley Project Improvement Act is amended—
8 (1) by striking “mitigation and restoration”;
9 (2) by striking “provided for or”; and
10 (3) by striking “of fish, wildlife” and all that
11 follows through the period and inserting “of carrying
12 out all activities described in this title.”.

13 (c) ADJUSTMENT AND ASSESSMENT OF MITIGATION
14 AND RESTORATION PAYMENTS.—Section 3407(d)(2) of
15 the Central Valley Project Improvement Act is amended
16 by inserting “, or after October 1, 2013, \$4 per megawatt-
17 hour for Central Valley Project power sold to power con-
18 tractors (October 2013 price levels)” after “\$12 per acre-
19 foot (October 1992 price levels) for municipal and indus-
20 trial water sold and delivered by the Central Valley
21 Project”.

22 (d) COMPLETION OF ACTIONS.—Section
23 3407(d)(2)(A) of the Central Valley Project Improvement
24 Act is amended by inserting “no later than December 31,
25 2020,” after “That upon the completion of the fish, wild-

1 life, and habitat mitigation and restoration actions man-
2 dated under section 3406 of this title,”.

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

6 “(g) REPORT ON EXPENDITURE OF FUNDS.—At the
7 end of each fiscal year, the Secretary, in consultation with
8 the Restoration Fund Advisory Board, shall submit to
9 Congress a plan for the expenditure of all of the funds
10 deposited into the Restoration Fund during the preceding
11 fiscal year. Such plan shall contain a cost-effectiveness
12 analysis of each expenditure.

13 “(h) ADVISORY BOARD.—

14 “(1) ESTABLISHMENT.—There is hereby estab-
15 lished the Restoration Fund Advisory Board (herein-
16 after in this section referred to as the ‘Advisory
17 Board’) composed of 12 members selected by the
18 Secretary, each for four-year terms, one of whom
19 shall be designated by the Secretary as Chairman.
20 The members shall be selected so as to represent the
21 various Central Valley Project stakeholders, four of
22 whom shall be from CVP agricultural users, three
23 from CVP municipal and industrial users, three
24 from CVP power contractors, and two at the discre-
25 tion of the Secretary. The Secretary and the Sec-

1 retary of Commerce may each designate a represent-
2 ative to act as an observer of the Advisory Board.

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

5 “(A) To meet at least semiannually to de-
6 velop and make recommendations to the Sec-
7 retary regarding priorities and spending levels
8 on projects and programs carried out pursuant
9 to the Central Valley Project Improvement Act.

10 “(B) To ensure that any advice or rec-
11 ommendation made by the Advisory Board to
12 the Secretary reflect the independent judgment
13 of the Advisory Board.

14 “(C) Not later than December 31, 2013,
15 and annually thereafter, to transmit to the Sec-
16 retary and Congress recommendations required
17 under subparagraph (A).

18 “(D) Not later than December 31, 2013,
19 and biennially thereafter, to transmit to Con-
20 gress a report that details the progress made in
21 achieving the actions mandated under section
22 3406 of this title.

23 “(3) ADMINISTRATION.—With the consent of
24 the appropriate agency head, the Advisory Board

1 may use the facilities and services of any Federal
2 agency.”.

3 **SEC. 107. ADDITIONAL AUTHORITIES.**

4 (a) **AUTHORITY FOR CERTAIN ACTIVITIES.**—Section
5 3408(c) of the Central Valley Project Improvement Act
6 (106 Stat. 4728) is amended to read as follows:

7 “(c) **CONTRACTS FOR ADDITIONAL STORAGE AND**
8 **DELIVERY OF WATER.**—

9 “(1) **IN GENERAL.**—The Secretary is authorized
10 to enter into contracts pursuant to Federal reclama-
11 tion law and this title with any Federal agency, Cali-
12 fornia water user or water agency, State agency, or
13 private organization for the exchange, impoundment,
14 storage, carriage, and delivery of nonproject water
15 for domestic, municipal, industrial, fish and wildlife,
16 and any other beneficial purpose.

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

20 “(3) **AUTHORITY FOR CERTAIN ACTIVITIES.**—
21 The Secretary shall use the authority granted by
22 this subsection in connection with requests to ex-
23 change, impound, store, carry, or deliver nonproject
24 water using Central Valley Project facilities for any
25 beneficial purpose.

1 “(4) RATES.—The Secretary shall develop rates
2 not to exceed the amount required to recover the
3 reasonable costs incurred by the Secretary in con-
4 nection with a beneficial purpose under this sub-
5 section. Such rates shall be charged to a party using
6 Central Valley Project facilities for such purpose.
7 Such costs shall not include any donation or other
8 payment to the Restoration Fund.

9 “(5) CONSTRUCTION.—This subsection shall be
10 construed and implemented to facilitate and encour-
11 age the use of Central Valley Project facilities to ex-
12 change, impound, store, carry, or deliver nonproject
13 water for any beneficial purpose.”.

14 (b) REPORTING REQUIREMENTS.—Section 3408(f) of
15 the Central Valley Project Improvement Act (106 Stat.
16 4729) is amended—

17 (1) by striking “Interior and Insular Affairs
18 and the Committee on Merchant Marine and Fish-
19 eries” and inserting “Natural Resources”;

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

23 (3) by adding at the end the following: “The fil-
24 ing and adequacy of such report shall be personally
25 certified to the Committees referenced above by the

1 Regional Director of the Mid-Pacific Region of the
2 Bureau of Reclamation.”.

3 (c) PROJECT YIELD INCREASE.—Section 3408(j) of
4 the Central Valley Project Improvement Act (106 Stat.
5 4730) is amended as follows:

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

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

11 (3) By striking “needs, the Secretary,” and all
12 that follows through “submit to the Congress, a”
13 and inserting “needs, the Secretary, on a priority
14 basis and not later than September 30, 2013, shall
15 submit to Congress a”.

16 (4) By striking “increase,” and all that follows
17 through “options:” and inserting “increase, as soon
18 as possible but not later than September 30, 2016
19 (except for the construction of new facilities which
20 shall not be limited by that deadline), the water of
21 the Central Valley Project by the amount dedicated
22 and managed for fish and wildlife purposes under
23 this title and otherwise required to meet the pur-
24 poses of the Central Valley Project including satis-
25 fying contractual obligations. The plan required by

1 this subsection shall include recommendations on ap-
2 propriate cost-sharing arrangements and authorizing
3 legislation or other measures needed to implement
4 the intent, purposes, and provisions of this sub-
5 section and a description of how the Secretary in-
6 tends to use the following options—”.

7 (5) In subparagraph (A), by inserting “and
8 construction of new water storage facilities” before
9 the semicolon.

10 (6) In subparagraph (F), by striking “and” at
11 the end.

12 (7) In subparagraph (G), by striking the period
13 and all that follows through the end of the sub-
14 section and inserting “; and”.

15 (8) By inserting after subparagraph (G) the fol-
16 lowing:

17 “(H) Water banking and recharge.”.

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

19 “(2) IMPLEMENTATION OF PLAN.—The Sec-
20 retary shall implement the plan required by para-
21 graph (1) commencing on October 1, 2013. In order
22 to carry out this subsection, the Secretary shall co-
23 ordinate with the State of California in imple-
24 menting measures for the long-term resolution of

1 problems in the San Francisco Bay/Sacramento-San
2 Joaquin Delta Estuary.

3 “(3) FAILURE OF THE PLAN.—Notwithstanding
4 any other provision of Federal reclamation law, if by
5 September 30, 2016, the plan required by paragraph
6 (1) fails to increase the annual delivery capability of
7 the Central Valley Project by 800,000 acre-feet, im-
8 plementation of any non-mandatory action under
9 section 3406(b)(2) shall be suspended until the plan
10 achieves an increase in the annual delivery capability
11 of the Central Valley Project by 800,000 acre-feet.”.

12 (d) TECHNICAL CORRECTION.—Section 3408(h) of
13 the Central Valley Project Improvement Act (106 Stat.
14 4729) is amended—

15 (1) in paragraph (1), by striking “paragraph
16 (h)(2)” and inserting “paragraph (2)”; and

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

19 (e) WATER STORAGE PROJECT CONSTRUCTION.—
20 The Secretary, acting through the Commissioner of the
21 Bureau of Reclamation, may partner or enter into an
22 agreement on the water storage projects identified in sec-
23 tion 103(d)(1) of the Water Supply Reliability, and Envi-
24 ronmental Improvement Act (Public Law 108–361)(and
25 Acts supplemental and amendatory to the Act) with local

1 joint powers authorities formed pursuant to State law by
2 irrigation districts and other local water districts and local
3 governments within the applicable hydrologic region, to
4 advance these projects. No additional Federal funds are
5 authorized for the activities authorized in sections
6 103(d)(1)(A)(i), 103(d)(1)(A)(ii), and 103(d)(1)(A)(iii) of
7 Public Law 108–361. However, each water storage project
8 under sections 103(d)(1)(A)(i), 103(d)(1)(A)(ii), and
9 103(d)(1)(A)(iii) of Public Law 108–361 is authorized for
10 construction if non-Federal funds are used for financing
11 and constructing the project.

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

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

1 with the “Principles for Agreement on the Bay-Delta
2 Standards Between the State of California and the Fed-
3 eral Government” dated December 15, 1994.

4 (b) APPLICATION OF LAWS TO OTHERS.—Neither a
5 Federal department nor the State of California, including
6 any agency or board of the State of California, shall im-
7 pose on any water right obtained pursuant to State law,
8 including a pre-1914 appropriative right, any condition
9 that restricts the exercise of that water right in order to
10 conserve, enhance, recover or otherwise protect any species
11 that is affected by operations of the Central Valley Project
12 or California State Water Project. Nor shall the State of
13 California, including any agency or board of the State of
14 California, restrict the exercise of any water right obtained
15 pursuant to State law, including a pre-1914 appropriative
16 right, in order to protect, enhance, or restore under the
17 Public Trust Doctrine any public trust value. Implementa-
18 tion of the “Principles for Agreement on the Bay-Delta
19 Standards Between the State of California and the Fed-
20 eral Government” dated December 15, 1994, shall be in
21 strict compliance with the water rights priority system and
22 statutory protections for areas of origin.

23 (c) COSTS.—No cost associated with the implementa-
24 tion of this section shall be imposed directly or indirectly
25 on any Central Valley Project contractor, or any other per-

1 son or entity, unless such costs are incurred on a voluntary
2 basis.

3 (d) NATIVE SPECIES PROTECTION.—California law is
4 preempted with respect to any restriction on the quantity
5 or size of nonnative fish taken or harvested that preys
6 upon one or more native fish species that occupy the Sac-
7 ramento and San Joaquin Rivers and their tributaries or
8 the Sacramento-San Joaquin Rivers Delta.

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

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

21 **SEC. 110. AUTHORIZED SERVICE AREA.**

22 The authorized service area of the Central Valley
23 Project shall include the area within the boundaries of the
24 Kettleman City Community Services District, California,
25 as those boundaries exist on the date of the enactment

1 of this title. Notwithstanding the provisions of the Act of
2 October 30, 1992 (Public Law 102–575, 106 Stat. 4600
3 et seq.), upon enactment of this title, the Secretary is au-
4 thorized and directed to enter into a long-term contract
5 in accordance with the reclamation laws with the
6 Kettleman City Community Services District, California,
7 for the delivery of up to 900 acre-feet of Central Valley
8 Project water for municipal and industrial use. The Sec-
9 retary may temporarily reduce deliveries of the quantity
10 of water made available pursuant to up to 25 percent of
11 such total whenever reductions due to hydrologic cir-
12 cumstances are imposed upon agricultural deliveries of
13 Central Valley Project water. If any additional infrastruc-
14 ture or related-costs are needed to implement this section,
15 such costs shall be the responsibility of the non-Federal
16 entity.

17 **SEC. 111. REGULATORY STREAMLINING.**

18 (a) **APPLICABILITY OF CERTAIN LAWS.**—Filing of a
19 Notice of Determination or a Notice of Exemption for any
20 project, including the issuance of a permit under State
21 law, related to any project of the CVP or the delivery of
22 water therefrom in accordance with the California Envi-
23 ronmental Quality Act shall be deemed to meet the re-
24 quirements of section 102(2)(C) of the National Environ-

1 mental Protection Act of 1969 (42 U.S.C. 4332(2)(C)) for
2 that project or permit.

3 (b) CONTINUATION OF PROJECT.—The Bureau of
4 Reclamation shall not be required to cease or modify any
5 major Federal action or other activity related to any
6 project of the CVP or the delivery of water there from
7 pending completion of judicial review of any determination
8 made under the National Environmental Protection Act
9 of 1969 (42 U.S.C. 4332(2)(C)).

10 (c) PROJECT DEFINED.—For the purposes of this
11 section:

12 (1) CVP.—The term “CVP” means the Central
13 Valley Project.

14 (2) PROJECT.—The term “project”—

15 (A) means an activity that—

16 (i) is undertaken by a public agency,
17 funded by a public agency, or that requires
18 an issuance of a permit by a public agency;

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

21 (iii) may be subject to several discre-
22 tionary approvals by governmental agen-
23 cies;

24 (B) may include construction activities,
25 clearing or grading of land, improvements to

1 existing structures, and activities or equipment
2 involving the issuance of a permit; or

3 (C) as defined under the California Envi-
4 ronmental Quality Act in section 21065 of the
5 California Public Resource Code.

6 **TITLE II—SAN JOAQUIN RIVER** 7 **RESTORATION**

8 **SEC. 201. REPEAL OF THE SAN JOAQUIN RIVER SETTLE-** 9 **MENT.**

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

15 **SEC. 202. PURPOSE.**

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

20 **SEC. 203. DEFINITIONS.**

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

23 (1) by striking paragraph (1) and inserting the
24 following:

1 “(1) The term ‘Restoration Flows’ means the
2 additional water released or bypassed from Friant
3 Dam to insure that the target flow entering
4 Mendota Pool, located approximately 62 river miles
5 downstream from Friant Dam, does not fall below
6 50 cubic feet per second.”;

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

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

12 (3) by adding at the end the following new
13 paragraph:

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

19 **SEC. 204. IMPLEMENTATION OF RESTORATION.**

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

22 (1) in subsection (a)—

23 (A) in the matter preceding paragraph (1),
24 by striking “authorized and directed” and all
25 that follows through “in the Settlement:” and

1 inserting “authorized to carry out the fol-
2 lowing:”;

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

5 (C) in paragraph (3)—

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

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

10 (D) by adding at the end the following new
11 paragraphs:

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

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

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

21 “(C) shall release the Restoration Flows in
22 a manner that improves the fishery in the San
23 Joaquin River below Friant Dam, but upstream
24 of Gravelly Ford in existence as of the date of

1 the enactment of this part, and the associated
2 riparian habitat; and

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

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

1 may include ground water banking and recharge
2 projects. Such a plan shall not impact the water
3 supply or water rights of any entity outside the
4 Friant Division, Hidden unit, and Buchanan Unit of
5 the Central Valley Project. Such a plan shall be sub-
6 ject to applicable provisions of California water law
7 and the Secretary’s use of Central Valley Project fa-
8 cilities to make Project water (other than water re-
9 leased from Friant Dam pursuant to this part) and
10 water acquired through transfers available to exist-
11 ing south-of-Delta Central Valley Project contrac-
12 tors.”;

13 (2) in subsection (b)—

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

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

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

20 (4) by striking subsection (d) and inserting the
21 following:

22 “(d) MITIGATION OF IMPACTS.—Prior to October 1,
23 2013, the Secretary shall identify—

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

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

5 “(3) prior to the implementation of decisions or
6 agreements to construct, improve, operate, or main-
7 tain facilities that the Secretary determines are
8 needed to implement this part, the Secretary shall
9 implement all mitigations measures identified in sub-
10 section (d)(2) before Restoration Flows are com-
11 menced.”;

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

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

17 (7) in subsection (g)—

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

20 (B) by striking “or exchange contract” and
21 inserting “exchange contract, or water rights
22 settlement or holding contracts”;

23 (8) in subsection (h)—

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

25 (B) in paragraph (1)—

- 1 (i) in the matter preceding subpara-
2 graph (A), by striking “Interim Flows
3 under the Settlement” and inserting “Res-
4 toration Flows under this part”;
- 5 (ii) in subparagraph (C)—
- 6 (I) in clause (i), by striking “In-
7 terim” and inserting “Restoration”;
8 and
- 9 (II) in clause (ii), by inserting
10 “and” after the semicolon;
- 11 (iii) in subparagraph (D), by striking
12 “and” at the end; and
- 13 (iv) by striking subparagraph (E);
- 14 (C) in paragraph (2)—
- 15 (i) by striking “Interim” and insert-
16 ing “Restoration”;
- 17 (ii) by striking subparagraph (A); and
- 18 (iii) by striking “(B) exceed” and in-
19 serting “exceed”;
- 20 (D) in paragraph (3), by striking “In-
21 terim” and inserting “Restoration”; and
- 22 (E) by striking paragraph (4) and insert-
23 ing the following:
- 24 “(4) CLAIMS.—Within 60 days of enactment of
25 this Act the Secretary shall promulgate a rule estab-

1 lishing a claims process to address current and fu-
2 ture claims including, but not limited to, ground
3 water seepage, flooding, or levee instability damages
4 caused as a result of, arising out of, or related to
5 implementation of subtitle A of title X of Public
6 Law 111–11.”;

7 (9) in subsection (i)—

8 (A) in paragraph (1)—

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

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

14 (iii) in subparagraph (B)—

15 (I) by striking “additional
16 amounts authorized to be appro-
17 priated, including the”; and

18 (II) by striking “; and” and in-
19 serting a period; and

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

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

22 (10) by adding at the end the following new
23 subsections:

24 “(k) NO IMPACTS ON OTHER INTERESTS.—No Cen-
25 tral Valley Project or other water other than San Joaquin

1 River water impounded by or bypassed from Friant Dam
2 shall be used to implement subsection (a)(2) unless such
3 use is on a voluntary basis. No cost associated with the
4 implementation of this section shall be imposed directly
5 or indirectly on any Central Valley Project contractor, or
6 any other person or entity, outside the Friant Division,
7 the Hidden Unit, or the Buchanan Unit, unless such costs
8 are incurred on a voluntary basis. The implementation of
9 this part shall not result directly or indirectly in any re-
10 duction in water supplies or water reliability on any Cen-
11 tral Valley Project contractor, any State Water Project
12 contractor, or any other person or entity, outside the
13 Friant Division, the Hidden Unit, or the Buchanan Unit,
14 unless such reductions or costs are incurred on a voluntary
15 basis.

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

21 “(m) IN GENERAL.—Notwithstanding section 8 of
22 the Reclamation Act of 1902, except as provided in this
23 part, including title IV of the Sacramento and San Joa-
24 quin Valleys Water Reliability Act, this part preempts and
25 supersedes any State law, regulation, or requirement that

1 imposes more restrictive requirements or regulations on
2 the activities authorized under this part. Nothing in this
3 part shall alter or modify the obligations, if any, of the
4 Friant Division, Hidden Unit, and Buchanan Unit of the
5 Central Valley Project, or other water users on the San
6 Joaquin River or its tributaries, under orders issued by
7 the State Water Resources Control Board pursuant to the
8 Porter-Cologne Water Quality Control Act (California
9 Water Code sections 13000 et seq.). Any such order shall
10 be consistent with the congressional authorization for any
11 affected Federal facility as it pertains to the Central Val-
12 ley Project.

13 “(n) PROJECT IMPLEMENTATION.—Projects to im-
14 plement this title shall be phased such that each project
15 shall follow the sequencing identified below and include at
16 least the—

17 “(1) project purpose and need;

18 “(2) identification of mitigation measures;

19 “(3) appropriate environmental review; and

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

22 “(A) complete the implementation of miti-
23 gation measures required; and

24 “(B) complete implementation of the
25 project.”.

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

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

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

7 (2) in subsection (b)—

8 (A) in paragraph (1)—

9 (i) by striking “(1) IN GENERAL.—
10 The Secretary” and inserting “The Sec-
11 retary”; and

12 (ii) by striking “the Settlement au-
13 thorized by this part” and inserting “this
14 part”; and

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

16 (3) in subsection (c)—

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

19 (B) in paragraph (2)—

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

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

24 (C) in paragraph (3), by striking “section
25 10009(c)” and inserting “section 10009”.

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

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

4 (1) in subsection (a)—

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

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

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

13 (3) in subsection (c)—

14 (A) in paragraph (2), by striking “section
15 10004” and inserting “this part”; and

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

18 (4) in subsection (d)—

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

22 (B) by striking “for implementation of the
23 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 in-
7 serting “enactment of this part”; and

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

1 this part. Any Central Valley Project long-term
2 water service or repayment contractor within the
3 Friant Division, Hidden unit, or Buchanan Unit ad-
4 versely affected by the Secretary’s failure to comply
5 with section 10004(a)(3) of this part may bring an
6 action against the Secretary for injunctive relief or
7 damages, 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” the
16 first place it appears and inserting “this
17 part”;

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

21 (iii) by striking “provided however,”
22 and all that follows through
23 “\$110,000,000 of State funds”;

24 (B) in paragraph (2)—

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

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

11 (3) in subsection (b)(1)—

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

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

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

18 (4) in subsection (c)—

19 (A) in paragraph (1)—

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

23 (ii) in subparagraph (C), by striking
24 “from the sale of water pursuant to the
25 Settlement, or”; and

1 (iii) in subparagraph (D), by striking
2 “the Settlement” and inserting “this
3 part”;

4 (B) in paragraph (2), by striking “the Set-
5 tlement and” before “this part”; and
6 (5) by striking subsections (d) through (f).

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

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

11 (1) in subsection (a)—

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

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

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

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

20 (4) in subsection (e)—

21 (A) in paragraph (1)—

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

1 “Restoration Flows, pursuant to this
2 part”;

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

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

10 (B) in paragraph (2)—

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

15 (ii) by striking “the Interim Flows or
16 Restoration Flows or to facilitate the
17 Water Management Goal” and inserting
18 “Restoration Flows”.

19 **SEC. 211. REPEAL.**

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

22 **SEC. 212. WATER SUPPLY MITIGATION.**

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

1 (1) in paragraph (1), by striking “the Interim
2 or Restoration Flows authorized in part I of this
3 subtitle” and inserting “Restoration Flows author-
4 ized in this part”;

5 (2) in paragraph (2), by striking “the Interim
6 or Restoration Flows authorized in part I of this
7 subtitle” and inserting “Restoration Flows author-
8 ized in this part”; and

9 (3) in paragraph (3)—

10 (A) in subparagraph (A), by striking
11 “meet the Restoration Goal as described in part
12 I of this subtitle” and inserting “recover Res-
13 toration Flows as described in this part”;

14 (B) in subparagraph (C)—

15 (i) by striking “the Interim or Res-
16 toration Flows authorized in part I of this
17 subtitle” and inserting “Restoration Flows
18 authorized in this part”; and

19 (ii) by striking “, and for ensuring ap-
20 propriate adjustment in the recovered
21 water account pursuant to section
22 10004(a)(5)”.

23 **SEC. 213. ADDITIONAL AUTHORITIES.**

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

1 (1) in subsection (b)—

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

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

6 (2) by striking subsection (c).

7 **TITLE III—REPAYMENT CON-**
8 **TRACTS AND ACCELERATION**
9 **OF REPAYMENT OF CON-**
10 **STRUCTION COSTS**

11 **SEC. 301. REPAYMENT CONTRACTS AND ACCELERATION OF**
12 **REPAYMENT OF CONSTRUCTION COSTS.**

13 (a) CONVERSION OF CONTRACTS.—

14 (1) Not later than 1 year after enactment, the
15 Secretary of the Interior, upon request of the con-
16 tractor, shall convert all existing long-term Central
17 Valley Project contracts entered under subsection (e)
18 of section 9 of the Act of August 4, 1939 (53 Stat.
19 1196), to a contract under subsection (d) of section
20 9 of said Act (53 Stat. 1195), under mutually agree-
21 able terms and conditions.

22 (2) Upon request of the contractor, the Sec-
23 retary is further authorized to convert, not later
24 than 1 year after enactment, any Central Valley
25 Project long-term contract entered under subsection

1 (c)(2) of section 9 of the Act of August 4, 1939 (53
2 Stat. 1194), to a contract under subsection (c)(1) of
3 section 9 of said Act, under mutually agreeable
4 terms and conditions.

5 (3) All contracts entered into pursuant to para-
6 graph (1) shall—

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

24 (B) require that, notwithstanding sub-
25 section (c)(2), construction costs or other cap-

1 italized costs incurred after the effective date of
2 the converted contract or not reflected in the
3 schedule referenced in subparagraph (A), and
4 properly assignable to such contractor, shall be
5 repaid in not more than 5 years after notifica-
6 tion of the allocation if such amount is a result
7 of a collective annual allocation of capital costs
8 to the contractors exercising contract conver-
9 sions under this subsection of less than
10 \$5,000,000. If such amount is \$5,000,000 or
11 greater, such cost shall be repaid as provided by
12 applicable reclamation law, provided that the
13 reference to the amount of \$5,000,000 shall not
14 be a precedent in any other context; and

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

18 (4) All contracts entered into pursuant to para-
19 graph (2) shall—

20 (A) require the repayment in lump sum of
21 the remaining amount of construction costs
22 identified in the most current version of the
23 Central Valley Project Schedule of Municipal
24 and Industrial Water Rates, as adjusted to re-
25 flect payments not reflected in such schedule,

1 and properly assignable for ultimate return by
2 the contractor, no later than January 31, 2016.
3 An estimate of the remaining amount of con-
4 struction costs as of January 31, 2016, as ad-
5 justed, shall be provided by the Secretary of the
6 Interior to each contractor no later than 180
7 days after enactment; and

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

24 (b) FINAL ADJUSTMENT.—The amounts paid pursu-
25 ant to subsection (a) shall be subject to adjustment fol-

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

17 (c) APPLICABILITY OF CERTAIN PROVISIONS.—

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

1 (2) Notwithstanding any repayment obligation
2 under paragraph (3)(B) or paragraph (4)(B) of sub-
3 section (a), or subsection (b), upon a contractor's
4 compliance with and discharge of the obligation of
5 repayment of the construction costs as provided in
6 paragraphs (3)(A) and (4)(A) of subsection (a), such
7 contractor shall continue to pay applicable operation
8 and maintenance costs and other charges applicable
9 to such repayment contracts pursuant to the then-
10 current rate-setting policy and applicable law.

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

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

1 (f) DEFINITION OF TREASURY RATE.—For purposes
2 of this section, “Treasury Rate” shall be defined as the
3 20-year Constant Maturity Treasury rate published by the
4 United States Department of the Treasury as of October
5 1, 2012.

6 **TITLE IV—BAY-DELTA WATER-**
7 **SHED WATER RIGHTS PRES-**
8 **ERVATION AND PROTECTION**

9 **SEC. 401. WATER RIGHTS AND AREA-OF-ORIGIN PROTEC-**
10 **TIONS.**

11 Notwithstanding the provisions of this Act, Federal
12 reclamation law, or the Endangered Species Act of 1973
13 (16 U.S.C. 1531 et seq.)—

14 (1) the Secretary of the Interior (“Secretary”)
15 is directed, in the operation of the Central Valley
16 Project, to strictly adhere to State water rights law
17 governing water rights priorities by honoring water
18 rights senior to those belonging to the Central Valley
19 Project, regardless of the source of priority;

20 (2) the Secretary is directed, in the operation of
21 the Central Valley Project, to strictly adhere to and
22 honor water rights and other priorities that are ob-
23 tained or exist pursuant to the provisions of Cali-
24 fornia Water Code sections 10505, 10505:5, 11128,

1 11460, and 11463; and sections 12200 to 12220, in-
2 clusive; and

3 (3) any action that affects the diversion of
4 water or involves the release of water from any Cen-
5 tral Valley Project water storage facility taken by
6 the Secretary or the Secretary of the Department of
7 Commerce to conserve, enhance, recover, or other-
8 wise protect any species listed under the Endangered
9 Species Act of 1973 (16 U.S.C. 1531 et seq.) shall
10 be applied in a manner that is consistent with water
11 right priorities established by State law.

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

13 In the implementation of the Endangered Species Act
14 of 1973 (16 U.S.C. 1531 et seq.), in the Bay-Delta and
15 on the Sacramento River, the Secretary and the Secretary
16 of Commerce are directed to apply any limitations on the
17 operation of the Central Valley Project or to formulate any
18 “reasonable prudent alternative” associated with the oper-
19 ation of the Central Valley Project in a manner that strict-
20 ly adheres to and applies the water rights priorities for
21 “Project Water” and “Base Supply” provided for in the
22 Sacramento River Settlement Contracts. Article 3(i) of the
23 Sacramento River Settlement Contracts shall not be uti-
24 lized by the United States as means to provide shortages
25 to the Sacramento River Settlement Contracts that are

1 different than those provided for in Article 5(a) of those
2 contracts.

3 **SEC. 403. SACRAMENTO RIVER WATERSHED WATER SERV-**
4 **ICE CONTRACTORS.**

5 (a) IN GENERAL.—Subject to subsection (b) and the
6 absolute priority of the Sacramento River Settlement Con-
7 tractors to Sacramento River supplies over Central Valley
8 Project diversions and deliveries to other contractors, the
9 Secretary is directed, in the operation of the Central Val-
10 ley Project, to allocate water provided for irrigation pur-
11 poses to existing Central Valley Project agricultural water
12 service contractors within the Sacramento River Water-
13 shed in compliance with the following:

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

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

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

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

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

24 (b) PROTECTION OF MUNICIPAL AND INDUSTRIAL
25 SUPPLIES.—Nothing in subsection (a) shall be deemed to

1 (i) modify any provision of a water service contract that
2 addresses municipal and industrial water shortage policies
3 of the Secretary, (ii) affect or limit the authority of the
4 Secretary to adopt or modify municipal and industrial
5 water shortage policies, (iii) affect or limit the authority
6 of the Secretary to implement municipal and industrial
7 water shortage policies, or (iv) affect allocations to Central
8 Valley Project municipal and industrial contractors pursu-
9 ant to such policies. Neither subsection (a) nor the Sec-
10 retary's implementation of subsection (a) shall constrain,
11 govern or affect, directly or indirectly, the operations of
12 the Central Valley Project's American River Division or
13 any deliveries from that Division, its units or its facilities.

14 (c) DEFINITIONS.—In this section:

15 (1) The term “existing Central Valley Project
16 agricultural water service contractors within the
17 Sacramento River Watershed” means water service
18 contractors within the Shasta, Trinity, and Sac-
19 ramento River Divisions of the Central Valley
20 Project, that have a water service contract in effect,
21 on the date of the enactment of this section, that
22 provides water for irrigation.

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

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

2 The Secretary shall insure that there are no redi-
3 rected adverse water supply or fiscal impacts to those
4 within the Sacramento River or San Joaquin River water-
5 shed or to the State Water Project arising from the Sec-
6 retary's operation of the Central Valley Project to meet
7 legal obligations imposed by or through any State or Fed-
8 eral agency, including, but not limited to those legal obli-
9 gations emanating from the Endangered Species Act of
10 1973 (16 U.S.C. 1531 et seq.) or this Act, or actions or
11 activities implemented to meet the twin goals of improving
12 water supply or addressing environmental needs of the
13 Bay Delta.

14 **TITLE V—MISCELLANEOUS**

15 **SEC. 501. PRECEDENT.**

16 Congress finds and declares that—

17 (1) coordinated operations between the Central
18 Valley Project and the State Water Project, pre-
19 viously requested and consented to by the State of
20 California and the Federal Government, require as-
21 sertion of Federal supremacy to protect existing
22 water rights throughout the system; and

23 (2) these circumstances are unique to Cali-
24 fornia.

- 1 Therefore, nothing in this Act shall serve as precedent in
- 2 any other State.

Passed the House of Representatives February 29,
2012.

Attest:

Clerk.

112TH CONGRESS
2^D SESSION

H. R. 1837

AN ACT

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