February 21, 2012

RULES COMMITTEE PRINT 112-15

TEXT OF H.R. 1837, THE SAN JOAQUIN VALLEY WATER RELIABILITY ACT

[Showing the text of the bill as ordered reported by the Committee on Natural Resources]

1 SECTION 1. SHORT TITLE.

This Act may be cited as the “Sacramento-San Joaquin Valley Water Reliability Act”.

2 SEC. 2. TABLE OF CONTENTS.

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TITLE I—CENTRAL VALLEY
PROJECT WATER RELIABILITY

SEC. 101. AMENDMENT TO PURPOSES.

Section 3402 of the Central Valley Project Improvement Act (106 Stat. 4706) is amended—

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

(2) by adding at the end the following:

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

“(h) to facilitate and expedite water transfers in accordance with this Act.”.
SEC. 102. AMENDMENT TO DEFINITION.

Section 3403 of the Central Valley Project Improvement Act (106 Stat. 4707) is amended—

(1) by amending subsection (a) to read as follows:

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

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

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

(4) by adding at the end the following:

“(n) the term ‘reasonable flows’ means water flows capable of being maintained taking into account competing consumptive uses of water and economic, environmental, and social factors.”.

SEC. 103. CONTRACTS.

Section 3404 of the Central Valley Project Improvement Act (106 Stat. 4708) is amended—

(1) in the heading, by striking “LIMITATION ON CONTRACTING AND CONTRACTS REFORM” and inserting “CONTRACTS”; and
(2) by striking the language of the section and
by adding:

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

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

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

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

(1) In subsection (a)—

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

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

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

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

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

(D) by adding at the end the following:
“(4) Notwithstanding any other provision of Federal reclamation law—

“(A) the authority to make transfers or exchanges of, or banking or recharge arrangements using, Central Valley Project water that could have been conducted before October 30, 1992, is valid, and such transfers, exchanges, or arrangements shall not be subject to, limited, or conditioned by this title; and

“(B) this title shall not supersede or revoke the authority to transfer, exchange, bank, or recharge Central Valley Project water that existed prior to October 30, 1992.”.

(2) In subsection (b)—

(A) in the heading, by striking “METERING” and inserting “MEASUREMENT”; and

(B) by inserting after the first sentence the following: “The contracting district or agency, not including contracting districts serving multiple agencies with separate governing boards, shall ensure that all contractor-owned water delivery systems within its boundaries measure surface water at the district or agency’s facilities up to the point the surface water is commingled with other water supplies.”.
(3) By striking subsection (d).

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

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

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

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

(C) by striking “and all increased revenues received by the Secretary as a result of the increased water prices established under subsection 3405(d) of this section,”.

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

Section 3406 of the Central Valley Project Improvement Act (106 Stat. 4714) is amended as follows:

(1) In subsection (b)—

(A) in paragraph (1)(B)—

(i) by striking “is authorized and directed to” and inserting “may”;

(ii) by inserting “reasonable water” after “to provide”;
(iii) by striking “anadromous fish, ex-
cept that such” and inserting “anad-
romous fish. Such”; 
(iv) by striking “Instream flow” and 
inserting “Reasonable instream flow”; 
(v) by inserting “and the National 
Marine Fisheries Service” after “United 
States Fish and Wildlife Service”; and 
(vi) by striking “California Depart-
ment of Fish and Game” and inserting 
“United States Geological Survey”; 
(B) in paragraph (2)— 
(i) by striking “primary purpose” and 
inserting “purposes”; 
(ii) by striking “but not limited to” 
before “additional obligations”; and 
(iii) by adding after the period the fol-
lowing: “All Central Valley Project water 
used for the purposes specified in this 
paragraph shall be credited to the quantity 
of Central Valley Project yield dedicated 
and managed under this paragraph by de-
termining how the dedication and manage-
ment of such water would affect the deliv-
ery capability of the Central Valley Project
during the 1928 to 1934 drought period
after fishery, water quality, and other flow
and operational requirements imposed by
terms and conditions existing in licenses,
permits, and other agreements pertaining
to the Central Valley Project under appli-
cable State or Federal law existing on Oc-
tober 30, 1992, have been met. To the full-
est extent possible and in accordance with
section 3411, Central Valley Project water
dedicated and managed pursuant to this
paragraph shall be reused to fulfill the
Secretary’s remaining contractual obliga-
tions to provide Central Valley Project
water for agricultural or municipal and in-
dustrial purposes.”;
(C) by amending paragraph (2)(C) to read:
“(C) If by March 15th of any year the
quantity of Central Valley Project water fore-
casted to be made available to water service or
repayment contractors in the Delta Division of
the Central Valley Project is below 75 percent
of the total quantity of water to be made avail-
able under said contracts, the quantity of Cen-
tral Valley Project yield dedicated and managed
for that year under this paragraph shall be re-
duced by 25 percent.”.

(2) By adding at the end the following:

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

SEC. 106. RESTORATION FUND.

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

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

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

(3) By adding at the end the following:

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

“(A) or environmental restoration or mitigation
fees not otherwise provided by law, as a condition
“(i) providing for the storage or conveyance of non-Central Valley Project water pursuant to Federal reclamation laws; or

“(ii) the delivery of water pursuant to section 215 of the Reclamation Reform Act of 1982 (Public Law 97–293; 96 Stat. 1270); or

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

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

(1) by striking “mitigation and restoration”;
(2) by striking “provided for or”; and
(3) by striking “of fish, wildlife” and all that follows through the period and inserting “of carrying out all activities described in this title.”.

(e) ADJUSTMENT AND ASSESSMENT OF MITIGATION AND RESTORATION PAYMENTS.—Section 3407(d)(2) of the Central Valley Project Improvement Act is amended by inserting “, or after October 1, 2013, $4 per megawatt-hour for Central Valley Project power sold to power contractors (October 2013 price levels)” after “$12.00 per acre-foot (October 1992 price levels) for municipal and industrial water sold and delivered by the Central Valley Project”.
(d) COMPLETION OF ACTIONS.—Section 3407(d)(2)(A) of the Central Valley Project Improvement Act is amended by inserting “, no later than December 31, 2020,” after “That upon the completion of the fish, wildlife, and habitat mitigation and restoration actions mandated under section 3406 of this title,”.

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

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

“(h) ADVISORY BOARD.—

“(1) ESTABLISHMENT.—There is hereby established the Restoration Fund Advisory Board (hereinafter in this section referred to as the ‘Advisory Board’) composed of 12 members selected by the Secretary, each for four-year terms, one of whom shall be designated by the Secretary as Chairman. The members shall be selected so as to represent the various Central Valley Project stakeholders, four of
whom shall be from CVP agricultural users, three from CVP municipal and industrial users, three from CVP power contractors, and two at the discretion of the Secretary. The Secretary and the Secretary of Commerce may each designate a representative to act as an observer of the Advisory Board.

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

“(A) To meet at least semiannually to develop and make recommendations to the Secretary regarding priorities and spending levels on projects and programs carried out pursuant to the Central Valley Project Improvement Act.

“(B) To ensure that any advice or recommendation made by the Advisory Board to the Secretary reflect the independent judgment of the Advisory Board.

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

“(D) Not later than December 31, 2013, and biennially thereafter, to transmit to Congress a report that details the progress made in
achieving the actions mandated under section 3406 of this title.

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

SEC. 107. ADDITIONAL AUTHORITIES.

(a) Authority for Certain Activities.—Section 3408(c) of the Central Valley Project Improvement Act (106 Stat. 4728) is amended to read as follows:

“(c) Contracts for Additional Storage and Delivery of Water.—

“(1) In General.—The Secretary is authorized to enter into contracts pursuant to Federal reclamation law and this title with any Federal agency, California water user or water agency, State agency, or private organization for the exchange, impoundment, storage, carriage, and delivery of nonproject water for domestic, municipal, industrial, fish and wildlife, and any other beneficial purpose.

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

“(3) Authority for Certain Activities.—

The Secretary shall use the authority granted by
this subsection in connection with requests to ex-
change, impound, store, carry, or deliver nonproject
water using Central Valley Project facilities for any
beneficial purpose.

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

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

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

(1) by striking “Interior and Insular Affairs
and the Committee on Merchant Marine and Fish-
ersies” and inserting “Natural Resources”;
(2) in the second sentence, by inserting before the period at the end the following: “, including progress on the plan required by subsection (j)” ; and

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

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

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

(2) By striking “In order to minimize adverse effects, if any, upon” and inserting “(1) IN GENERAL.—In order to minimize adverse effects upon”.

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

(4) By striking “increase,” and all that follows through “options—” and inserting “increase, as soon as possible but not later than September 30, 2016 (except for the construction of new facilities
which shall not be limited by that deadline), the water of the Central Valley Project by the amount dedicated and managed for fish and wildlife purposes under this title and otherwise required to meet the purposes of the Central Valley Project including satisfying contractual obligations. The plan required by this subsection shall include recommendations on appropriate cost-sharing arrangements and authorizing legislation or other measures needed to implement the intent, purposes, and provisions of this subsection and a description of how the Secretary intends to use the following options—’’.

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

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

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

(8) By inserting after subparagraph (G) the follow-
ing:

“(H) Water banking and recharge.”.

(9) By adding at the end the following:
“(2) IMPLEMENTATION OF PLAN.—The Secretary shall implement the plan required by paragraph (1) commencing on October 1, 2013. In order to carry out this subsection, the Secretary shall coordinate with the State of California in implementing measures for the long-term resolution of problems in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary.

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

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

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

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

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(e) Water Storage Project Construction.—

The Secretary, acting through the Commissioner of the Bureau of Reclamation, may partner on the water storage projects identified in section 103(d)(1) of the Water Supply Reliability, and Environmental Improvement Act (Public Law 108–361)(and Acts supplemental and amendatory to the Act) with local joint powers authorities formed pursuant to State law by irrigation districts and other local water districts and local governments within the applicable hydrologic region, to advance these projects. No Federal funds are authorized for this purpose and each water storage project is authorized for construction if non-Federal funds are used for financing and constructing the project.

SEC. 108. BAY-DELTA ACCORD.

(a) Congressional Direction Regarding Central Valley Project and California State Water Project Operations.—The Central Valley Project and the State Water Project shall be operated pursuant to the water quality standards and operational constraints described in the “Principles for Agreement on the Bay-Delta Standards Between the State of California and the Federal Government” dated December 15, 1994, and such operations shall proceed without regard to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or any other
law pertaining to the operation of the Central Valley
Project and the California State Water Project. Imple-
mentation of this section shall be in strict conformance
with the “Principles for Agreement on the Bay-Delta
Standards Between the State of California and the Fed-

(b) APPLICATION OF LAWS TO OTHERS.—Neither a
Federal department nor the State of California, including
any agency or board of the State of California, shall im-
pose on any valid water right obtained pursuant to State
law, including a pre-1914 appropriative right, any condi-
tion that restricts the exercise of that water right in order
to conserve, enhance, recover or otherwise protect any spe-
cies that is affected by operations of the Central Valley
Project or California State Water Project. Nor shall the
State of California, including any agency or board of the
State of California, restrict the exercise of any valid water
right obtained pursuant to State law, including a pre-1914
appropriative right, in order to protect, enhance, or restore
under the Public Trust Doctrine any public trust value.
Implementation of the “Principles for Agreement on the
Bay-Delta Standards Between the State of California and
the Federal Government” dated December 15, 1994, shall
be in strict compliance with the water rights priority sys-
tem and statutory protections for areas of origin.
(c) COSTS.—No cost associated with the implementation of this section shall be imposed directly or indirectly on any Central Valley Project contractor, or any other person or entity, unless such costs are incurred on a voluntary basis.

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

SEC. 109. NATURAL AND ARTIFICIALLY SPAWNED SPECIES.

After the date of the enactment of this title, and regardless of the date of listing, the Secretaries of the Interior and Commerce shall not distinguish between natural-spawned and hatchery-spawned or otherwise artificially propagated strains of a species in making any determination under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) that relates to any anadromous fish species present in the Sacramento and San Joaquin Rivers or their tributaries and ascend those rivers and their tributaries to reproduce after maturing in San Francisco Bay or the Pacific Ocean.
SEC. 110. AUTHORIZED SERVICE AREA.

The authorized service area of the Central Valley Project shall include the area within the boundaries of the Kettleman City Community Services District, California, as those boundaries exist on the date of the enactment of this title. Notwithstanding the provisions of the Act of October 30, 1992 (Public Law 102–575, 106 Stat. 4600 et seq.), upon enactment of this title, the Secretary is authorized and directed to enter into a long-term contract in accordance with the reclamation laws with the Kettleman City Community Services District, California, for the delivery of up to 900 acre-feet of Central Valley Project water for municipal and industrial use. The Secretary may temporarily reduce deliveries of the quantity of water made available pursuant to up to 25 percent of such total whenever reductions due to hydrologic circumstances are imposed upon agricultural deliveries of Central Valley Project water. If any additional infrastructure or related-costs are needed to implement this section, such costs shall be the responsibility of the non-Federal entity.

SEC. 111. REGULATORY STREAMLINING.

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

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

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

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

(2) PROJECT.—The term “project”—

(A) means an activity that—

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

(ii) has a potential to result in physical change to the environment; and
(iii) may be subject to several discretionary approvals by governmental agencies;

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

(C) as defined under the California Environmental Quality Act in section 21065 of the California Public Resource Code.

**TITLE II—SAN JOAQUIN RIVER RESTORATION**

**SEC. 201. REPEAL OF THE SAN JOAQUIN RIVER SETTLEMENT.**


**SEC. 202. PURPOSE.**

Section 10002 of the San Joaquin River Restoration Settlement Act (Public Law 111–11) is amended by striking “implementation of the Settlement” and inserting “restoration of the San Joaquin River”.

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SEC. 203. DEFINITIONS.

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

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

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

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

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

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

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

SEC. 204. IMPLEMENTATION OF RESTORATION.

Section 10004 of the San Joaquin River Restoration Settlement Act (Public Law 111–11) is amended—
(1) in subsection (a)—

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

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

(C) in paragraph (3)—

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

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

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

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

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

“(B) shall ensure that the release of Res-
toration Flows are maintained at the level pre-
scribed by this part, but that Restoration Flows
do not reach downstream of Mendota Pool;
“(C) shall release the Restoration Flows in a manner that improves the fishery in the San Joaquin River below Friant Dam, but upstream of Gravelly Ford in existence as of the date of the enactment of this part, and the associated riparian habitat; and

“(D) may, without limiting the actions required under paragraphs (A) and (C) and subject to subsections 10004(a)(3) and 10004(l), use the Restoration Flows to enhance or restore a warm water fishery downstream of Gravelly Ford to and including Mendota Pool, if the Secretary determines that it is reasonable, prudent, and feasible to do so; and

“(3) Not later than 1 year after the date of the enactment of this section, the Secretary shall develop and implement, in cooperation with the State of California, a reasonable plan, to fully recirculate, recapture, reuse, exchange, or transfer all Restoration Flows and provide such recirculated, recaptured, reused, exchanged, or transferred flows to those contractors within the Friant Division, Hidden Unit, and Buchanan Unit of the Central Valley Project that relinquished the Restoration Flows so recirculated, recaptured, reused, exchanged, or transferred.
ferred. Such a plan shall address any impact on
ground water resources within the service area of
the Friant Division, Hidden Unit, and Buchanan
Unit of the Central Valley Project and mitigation
may include ground water banking and recharge
projects. Such a plan shall not impact the water
supply or water rights of any entity outside the
Friant Division, Hidden unit, and Buchanan Unit of
the Central Valley Project. Such a plan shall be sub-
ject to applicable provisions of California water law
and the Secretary’s use of Central Valley Project fa-
cilities to make Project water (other than water re-
leased from Friant Dam pursuant to this part) and
water acquired through transfers available to exist-
ing south-of-Delta Central Valley Project contrac-
tors.”;

(2) in subsection (b)—

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

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

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

(4) by striking subsection (d) and inserting the
following:
“(d) MITIGATION OF IMPACTS.—Prior to October 1,

2013, the Secretary shall identify—

“(1) the impacts associated with the release of

Restoration Flows prescribed in this part;

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

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

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

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

(7) in subsection (g)—

(A) by striking “the Settlement and” be-
fore this part; and
(B) by striking “or exchange contract” and inserting “exchange contract, or water rights settlement or holding contracts”;

(8) in subsection (h)—

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

(B) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking “Interim Flows under the Settlement” and inserting “Restoration Flows under this part”;

(ii) in subparagraph (C)—

(I) in clause (i), by striking “Interim” and inserting “Restoration”; and

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

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

(iv) by striking subparagraph (E);

(C) in paragraph (2)—

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

(ii) by striking subparagraph (A); and

(iii) by striking “(B) exceed” and inserting “exceed”;
(D) in paragraph (3), by striking “Interim” and inserting “Restoration”; and

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

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

(9) in subsection (i)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking “the Settlement and parts I and III” and inserting “this part”;

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

(iii) in subparagraph (B)—

(I) by striking “additional amounts authorized to be appropriated, including the”; and

(II) by striking “; and” and inserting a period; and
(iv) by striking subparagraph (C); and

(B) by striking paragraph (3); and

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

“(k) NO IMPACTS ON OTHER INTERESTS.—No Central Valley Project or other water other than San Joaquin River water impounded by or bypassed from Friant Dam shall be used to implement subsection (a)(2) unless such use is on a voluntary basis. No cost associated with the implementation of this section shall be imposed directly or indirectly on any Central Valley Project contractor, or any other person or entity, outside the Friant Division, the Hidden Unit, or the Buchanan Unit, unless such costs are incurred on a voluntary basis. The implementation of this part shall not result directly or indirectly in any reduction in water supplies or water reliability on any Central Valley Project contractor, any State Water Project contractor, or any other person or entity, outside the Friant Division, the Hidden Unit, or the Buchanan Unit, unless such reductions or costs are incurred on a voluntary basis.

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

“(m) IN GENERAL.—Notwithstanding section 8 of the Reclamation Act of 1902, except as provided in this part, including Title IV of the Sacramento and San Joaquin Valleys Water Reliability Act, this part preempts and supersedes any State law, regulation, or requirement that imposes more restrictive requirements or regulations on the activities authorized under this part. Nothing in this part shall alter or modify the obligations, if any, of the Friant Division, Hidden Unit, and Buchanan Unit of the Central Valley Project, or other water users on the San Joaquin River or its tributaries, under orders issued by the State Water Resources Control Board pursuant to the Porter-Cologne Water Quality Control Act (California Water Code sections 13000 et seq.). Any such order shall be consistent with the congressional authorization for any affected Federal facility as it pertains to the Central Valley Project.

“(n) PROJECT IMPLEMENTATION.—Projects to implement this title shall be phased such that each project shall follow the sequencing identified below and include at least the—

“(1) project purpose and need;

“(2) identification of mitigation measures;
“(3) appropriate environmental review; and

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

“(A) complete the implementation of mitigation measures required; and

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

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

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

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

(2) in subsection (b)—

(A) in paragraph (1)—

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

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

(B) by striking paragraph (2); and

(3) in subsection (c)—

(A) in paragraph (1), by striking “the Settlement” and inserting “this part”;
(B) in paragraph (2)—

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

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

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

SEC. 206. COMPLIANCE WITH APPLICABLE LAW.

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

(1) in subsection (a)—

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

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

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

(3) in subsection (c)—

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

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

(4) in subsection (d)—
(A) by inserting “, including without limitation to sections 10004(d) and 10004(h)(4) of this part,” after “implementing this part”; and

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

SEC. 207. COMPLIANCE WITH CENTRAL VALLEY PROJECT IMPROVEMENT ACT.

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

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

(A) by striking “the Settlement” and inserting “enactment of this part”; and

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

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


SEC. 208. NO PRIVATE RIGHT OF ACTION.

Section 10008(a) of the San Joaquin River Restoration Settlement Act (Public Law 111–11) is amended—

(1) by striking “not a party to the Settlement” after “person or entity” ; and
(2) by striking “or the Settlement” before the period and inserting “unless otherwise provided by this part. Any Central Valley Project long-term water service or repayment contractor within the Friant Division, Hidden unit, or Buchanan Unit adversely affected by the Secretary’s failure to comply with section 10004(a)(3) of this part may bring an action against the Secretary for injunctive relief or damages, or both.”.

SEC. 209. IMPLEMENTATION.

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

(1) in the header by striking “; SETTLEMENT FUND”;
(2) in subsection (a)—

(A) in paragraph (1)—

(i) by striking “the Settlement” and inserting “this part”;
(ii) by striking “, estimated to total” and all that follows through “subsection (b)(1),”; and
(iii) by striking “, provided; however,”
and all that follows through
“$110,000,000 of State funds”; (B) in paragraph (2)—
(i) in subparagraph (A), by striking “(A) IN GENERAL.—The Secretary” and inserting “The Secretary”;
(ii) by striking subparagraph (B); and (C) in paragraph (3)—
(i) by striking “Except as provided in the Settlement, to” and inserting “To”; and
(ii) by striking “this Settlement” and inserting “this part”; 
(3) in subsection (b)(1)—
(A) by striking “In addition” through “however, that the” and inserting “The”; 
(B) by striking “such additional appropriations only in amounts equal to”; and 
(C) by striking “or the Settlement” before the period;
(4) in subsection (c)— 
(A) in paragraph (1)—
(i) in the matter preceding subparagraph (A), by striking “the Settlement” and inserting “this part”; 

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

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

(B) in paragraph (2), by striking “the Settlement and” before “this part”; and 

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

SEC. 210. REPAYMENT CONTRACTS AND ACCELERATION OF REPAYMENT OF CONSTRUCTION COSTS.

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

(1) in subsection (a)—

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

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

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

(3) in subsection (d)(1), by striking “the Settlement” in both places it appears and inserting “this part”;
(4) in subsection (e)—

(A) in paragraph (1)—

(i) by striking “Interim Flows or Restoration Flows, pursuant to paragraphs 13 or 15 of the Settlement” and inserting “Restoration Flows, pursuant to this part”; 

(ii) by striking “Interim Flows or” before “Restoration Flows”; and

(iii) by striking “the Interim Flows or Restoration Flows or is intended to otherwise facilitate the Water Management Goal, as described in the Settlement” and inserting “Restoration Flows”; and

(B) in paragraph (2)—

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

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


SEC. 211. REPEAL.

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

SEC. 212. WATER SUPPLY MITIGATION.

Section 10202(b) of the San Joaquin River Restoration Settlement Act (Public Law 111–11) is amended—

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

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

(3) in paragraph (3)—

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

(B) in subparagraph (C)—

(i) by striking “the Interim or Restoration Flows authorized in part I of this subtitle” and inserting “Restoration Flows authorized in this part”; and

(ii) by striking “, and for ensuring appropriate adjustment in the recovered
water account pursuant to section 10004(a)(5)’’.

SEC. 213. ADDITIONAL AUTHORITIES.

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

(1) in subsection (b)—

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

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

(2) by striking subsection (e).

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

SEC. 301. REPAYMENT CONTRACTS AND ACCELERATION OF REPAYMENT OF CONSTRUCTION COSTS.

(a) Conversion of Contracts.—

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

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

(3) All contracts entered into pursuant to paragraph (1) shall—

(A) require the repayment, either in lump sum or by accelerated prepayment, of the remaining amount of construction costs identified in the most current version of the Central Valley Project Schedule of Irrigation Capital Allocations by Contractor, as adjusted to reflect payments not reflected in such schedule, and properly assignable for ultimate return by the contractor, no later than January 31, 2013, or if made in approximately equal annual installments, no later than January 31, 2016; such amount to be discounted by the Treasury Rate. An estimate of the remaining amount of con-
struction costs as of January 31, 2013, as adjusted, shall be provided by the Secretary of the Interior to each contractor no later than 180 days after enactment;

(B) require that, notwithstanding subsection (c)(2), construction costs or other capitalized costs incurred after the effective date of the converted contract or not reflected in the schedule referenced in subparagraph (A), and properly assignable to such contractor, shall be repaid in not more than 5 years after notification of the allocation if such amount is a result of a collective annual allocation of capital costs to the contractors exercising contract conversions under this subsection of less than $5,000,000. If such amount is $5,000,000 or greater, such cost shall be repaid as provided by applicable reclamation law, provided that the reference to the amount of $5,000,000 shall not be a precedent in any other context; and

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

(4) All contracts entered into pursuant to paragraph (2) shall—
(A) require the repayment in lump sum of
the remaining amount of construction costs
identified in the most current version of the
Central Valley Project Schedule of Municipal
and Industrial Water Rates, as adjusted to re-
reflect payments not reflected in such schedule,
and properly assignable for ultimate return by
the contractor, no later than January 31, 2016.
An estimate of the remaining amount of con-
struction costs as of January 31, 2016, as ad-
justed, shall be provided by the Secretary of the
Interior to each contractor no later than 180
days after enactment; and

(B) require that, notwithstanding sub-
section (c)(2), construction costs or other cap-
tialized costs incurred after the effective date of
the contract or not reflected in the schedule re-
ferenced in subparagraph (A), and properly as-
signable to such contractor, shall be repaid in
not more than 5 years after notification of the
allocation if such amount is a result of a collec-
tive annual allocation of capital costs to the
contractors exercising contract conversions
under this subsection of less than $5,000,000.
If such amount is $5,000,000 or greater, such
cost shall be repaid as provided by applicable reclamation law, provided that the reference to the amount of $5,000,000 shall not be a precedent in any other context.

(b) **Final Adjustment.**—The amounts paid pursuant to subsection (a) shall be subject to adjustment following a final cost allocation by the Secretary of the Interior upon completion of the construction of the Central Valley Project. In the event that the final cost allocation indicates that the costs properly assignable to the contractor are greater than what has been paid by the contractor, the contractor shall be obligated to pay the remaining allocated costs. The term of such additional repayment contract shall be no less than 1 year and no more than 10 years, however, mutually agreeable provisions regarding the rate of repayment of such amount may be developed by the parties. In the event that the final cost allocation indicates that the costs properly assignable to the contractor are less than what the contractor has paid, the Secretary of the Interior is authorized and directed to credit such overpayment as an offset against any outstanding or future obligation of the contractor.

(e) **Applicability of Certain Provisions.**—

(1) Notwithstanding any repayment obligation under subsection (a)(3)(B) or subsection (b), upon a
contractor’s compliance with and discharge of the obligation of repayment of the construction costs as provided in subsection (a)(3)(A), the ownership and full-cost pricing limitations of any provision of Federal reclamation law shall not apply to lands in such district.

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

(d) Certain Repayment Obligations Not Altered.—Implementation of the provisions of this section shall not alter the repayment obligation of any other long-term water service or repayment contractor receiving water from the Central Valley Project, or shift any costs that would otherwise have been properly assignable to any contractors absent this section, including operations and maintenance costs, construction costs, or other capitalized
costs incurred after the date of enactment of this Act, to
other such contractors.

(c) **Statutory Interpretation.**—Nothing in this
part shall be construed to affect the right of any long-
term contractor to use a particular type of financing to
make the payments required in paragraph (3)(A) or para-
graph (4)(A) of subsection (a).

(f) **Definition of Treasury Rate.**—For purposes
of this section, “Treasury Rate” shall be defined as the
20-year Constant Maturity Treasury rate published by the
United States Department of the Treasury as of October
1, 2012.

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

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

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

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

(2) the Secretary is directed, in the operation of the Central Valley Project, to strictly adhere to and honor water rights and other priorities that are obtained or exist pursuant to the provisions of California Water Code sections 10505, 10505:5, 11128, 11460, and 11463; and sections 12200 to 12220, inclusive; and

(3) any action that affects the diversion of water or involves the release of water from any water storage facility taken by the Secretary or the Secretary of the Department of Commerce to conserve, enhance, recover, or otherwise protect any species listed under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) shall be applied in a manner that is consistent with water right priorities established by State law.

SEC. 402. SACRAMENTO RIVER SETTLEMENT CONTRACTS.

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

SEC. 403. SACRAMENTO RIVER WATERSHED WATER SERVICE CONTRACTORS.

(a) IN GENERAL.—Subject to subsection (b) and the absolute priority of the Sacramento River Settlement Contractors to Sacramento River supplies over Central Valley Project diversions and deliveries to other contractors, the Secretary is directed, in the operation of the Central Valley Project, to allocate water provided for irrigation purposes to existing Central Valley Project agricultural water service contractors within the Sacramento River Watershed in compliance with the following:

(1) Not less than 100% of their contract quantities in a “Wet” year.

(2) Not less than 100% of their contract quantities in an “Above Normal” year.
(3) Not less than 100% of their contract quantities in a “Below Normal” year.

(4) Not less than 75% of their contract quantities in a “Dry” year.

(5) Not less than 50% of their contract quantities in a “Critically Dry” year.

(b) PROTECTION OF MUNICIPAL AND INDUSTRIAL SUPPLIES.—Nothing in subsection (a) shall be deemed to
(i) modify any provision of a water service contract that addresses municipal and industrial water shortage policies of the Secretary, (ii) affect or limit the authority of the Secretary to adopt or modify municipal and industrial water shortage policies, (iii) affect or limit the authority of the Secretary to implement municipal and industrial water shortage policies, or (iv) affect allocations to Central Valley Project municipal and industrial contractors pursuant to such policies. Neither subsection (a) nor the Secretary’s implementation of subsection (a) shall constrain, govern or affect, directly or indirectly, the operations of the Central Valley Project’s American River Division or any deliveries from that Division, its units or its facilities.

c) DEFINITIONS.—In this section:

(1) The term “existing Central Valley Project agricultural water service contractors within the Sacramento River Watershed” means water service
contractors within the Shasta, Trinity, and Sacramento River Divisions of the Central Valley Project, that have a water service contract in effect, on the date of the enactment of this section, that provides water for irrigation.

(2) The year type terms used in subsection (a) have the meaning given those year types in the Sacramento Valley Water Year Type (40–30–30) Index.

SEC. 404. NO REDIRECTED ADVERSE IMPACTS.

The Secretary shall insure that there are no redirected adverse water supply or fiscal impacts to those within the Sacramento River watershed or to the State Water Project arising from the Secretary’s operation of the Central Valley Project to meet legal obligations imposed by or through any State or Federal agency, including, but not limited to those legal obligations emanating from the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or this Act, or actions or activities implemented to meet the twin goals of improving water supply or addressing environmental needs of the Bay Delta.

TITLE V—MISCELLANOUS

SEC. 501. PRECEDENT.

Congress finds and declares that—

(1) coordinated operations between the Central Valley Project and the State Water Project, pre-
viously requested and consented to by the State of California and the Federal Government, require assertion of Federal supremacy to protect existing water rights throughout the system; and (2) these circumstances are unique to California. Therefore, nothing in this Act shall serve as precedent in any other State.