



- Board of Directors
Communications and Legislation Committee

3/11/2014 Board Meeting

8-6

Subject

Express a watch position for H.R. 3964 (Valadao, R-CA) – Sacramento-San Joaquin Valley Emergency Water Delivery Act

Executive Summary

H.R. 3964, which is sponsored by Congressman Valadao of the Central Valley, and which passed the House of Representatives on February 5, 2014, seeks to address the drought conditions in California by relaxing regulatory restrictions on the operation of the Central Valley Project (CVP) and State Water Project (SWP) by doing the following: facilitating water transfers; modifying water delivery contract obligations; mandating delivery of certain quantities of water to CVP contractors; preempting certain state laws; and implementing other measures, which are intended to increase the supply of water from the water projects to water contractors. The bill largely tracks the provisions of H.R. 1837 (Nunez, R-CA), the Sacramento–San Joaquin Valley Water Reliability Act, which passed the House in 2012 and which the Board voted to watch. H. R. 3964 was discussed last month in Information Report 9-1 for the February 11, 2014 Communications and Legislation Committee.

Details

H.R. 3964, the Sacramento-San Joaquin Valley Emergency Water Delivery Act ([Attachment 1](#)), seeks to address the current drought condition in California by relaxing regulatory restrictions on the operation of the CVP and SWP. The provisions of H.R. 3964 may be grouped into the following four categories as discussed below: (1) amendments to the Central Valley Project Improvement Act; (2) amendments to the San Joaquin River Restoration Settlement Act; (3) operations criteria for the CVP and SWP, and relaxation of Endangered Species Act (ESA) requirements; and (4) preemption and the prohibition of SWP impacts.

Amendments to the Central Valley Project Improvement Act (CVPIA)

H.R. 3964 provides that if CVP project yield is not increased by 800,000 acre-feet (AF) by 2018, the 800,000 AF of water dedicated to fish and wildlife purposes under the CVPIA will be suspended. The bill also modifies the contract renewal and repayment criteria in the CVPIA, facilitates water transfers, provides for the reuse of water used for environmental purposes, reduces the amount of water available for fish and wildlife purposes when water allocations are low, and creates an Advisory Board to advise on the priorities and spending levels for CVPIA programs. The bill also allows certain irrigation districts on the Stanislaus River (Oakdale Irrigation District, South San Joaquin Irrigation District, and Calaveras County Water District) to store up to 300,000 AF of water in the New Melones Reservoir.

Amendments to the San Joaquin River Restoration Settlement Act (SJR Settlement Act)

H.R. 3964 directs the Secretary of the Interior to cease implementation of the San Joaquin River Settlement Agreement, which is intended to restore runs of salmon on the San Joaquin River as part of a legal settlement. The bill modifies the restoration program created in the SJR Settlement Act by, among other things, providing for 50-cubic-feet-per-second flows from Friant Dam to Mendota Pool and deeming that to satisfy all fish restoration obligations under state law. The bill also amends various environmental provisions and contractual obligations of water contractors under the SJR Settlement Act.

Operations Criteria for the CVP and SWP, and Relaxation of ESA Requirements

The bill directs that the CVP and SWP shall be operated pursuant to the standards and criteria in the 1994 Bay Delta Accord without regard to the ESA or any other law pertaining to the CVP or SWP. The bill also sharply limits the regulatory impact of the ESA by providing that federal and state agencies shall not impose on any water right obtained under state law any condition that restricts the exercise of that water right to protect any species affected by the CVP or the SWP. The bill also provides that the Secretary of the Interior shall strictly adhere to priorities under state water rights law, settlement contracts, and area-of-origin laws, and that any action to benefit species under the ESA shall be applied in a manner consistent with state water right priorities. The bill also mandates the delivery of a certain percentage of a water contractor's contractual entitlement depending on different water year types. The bill also allows the rescheduling of water deliveries from San Luis Reservoir under certain operational criteria.

Preemption and the Prohibition of SWP Impacts

H.R. 3964 attempts to preempt state regulatory efforts that could adversely impact Metropolitan and the SWP. H.R. 3964 contains several provisions which preempt or prohibit the enforcement of state law. The bill contains a finding and declaration that given the coordinated operations of the CVP and SWP, it is necessary to assert federal supremacy over state law to protect water rights throughout the system. The bill also sets up a program to remove non-native bass fish from the Stanislaus River which prey on salmon, and preempts any state law that would restrict removal of bass under this program. The bill, however, does not preempt or interfere with Governor Brown's Declaration of a State of Emergency and state actions pursuant to that Declaration to alleviate the drought.

The legislation also contains multiple provisions which seek to prevent any shifting of burdens to the SWP or SWP contractors as a result of the provisions in the bill relaxing environmental and other restrictions. For example, Title VI, Section 404 provides that the Secretary of the Interior shall insure that there are "no redirected adverse water supply or fiscal impacts to...the State Water Project" from the operation of the Central Valley Project to meet obligations under the ESA or the bill. Title II, Section 204 also prohibits redirecting impacts of the modification of the SJR Settlement Act to other parties. Title I, Section 108 also prohibits the shifting of costs due to implementing the 1994 Bay-Delta Accord as the operational criteria for the CVP and SWP.

One amendment was added on the House floor which provides that Governor Brown's drought declaration is deemed to be a request, under federal fisheries laws, that a fishery resource disaster exists.

In summary, the bill seeks to increase the delivery of water from the water projects by reducing or eliminating environmental and endangered species protections; modifying operational criteria for the projects; modifying contractual rights and obligations; preempting state laws that might interfere with the objectives of the bill; and preventing federal and state officials from transferring environmental, species-protection and other costs to other parties.

Metropolitan's Concerns Regarding H.R. 3964

Metropolitan staff have several concerns regarding the potential impacts of H.R. 3964 on Metropolitan.

Redirecting ESA Burdens to the SWP

The legislation seeks to prevent federal and state officials from imposing more severe endangered species restrictions on the SWP to make up for the relaxation of such restrictions on the CVP. It does this both through language specifying operational criteria (1994 Bay-Delta Accord) for both the CVP and the SWP; by preempting conflicting state law; and by expressly prohibiting the redirection of burdens and costs as a result of the legislation. While there is always room for improving the statutory language to achieve this goal, the bill does contain provisions intended to accomplish this purpose.

Relationship to the Bay Delta Conservation Plan (BDCP)

There is an issue whether the bill would adversely affect efforts to secure regulatory approval for the BDCP. If the CVP and SWP are directed to operate according to the 1994 Bay-Delta Accord, it is unlikely that operational criteria would satisfy ESA requirements for approving a Habitat Conservation Plan (HCP) or issuing ESA Section 10 incidental take permits. In addition, such criteria may be insufficient to obtain approval under California law of the Natural Community Conservation Plan (NCCP) component of the BDCP. While the bill prohibits “redirected impacts” and preempts conflicting state law, the bill does not provide that the criteria in the bill shall satisfy HCP and NCCP requirements or expressly preempt them. This would create uncertainty in the current BDCP process.

Impacts on Metropolitan’s Water Supply

The provisions in the bill that allow certain irrigation districts on the Stanislaus River to store up to 300,000 AF in the New Melones Reservoir could potentially affect Metropolitan’s water supply if the stored water would have otherwise flowed to the Delta. Language making clear that the stored water must be water that the irrigation districts would have otherwise used would help ensure that Metropolitan’s water supply is protected.

Comparison of S. 2016 (Feinstein) and H.R. 3964 (Valadao)

Senate Bill 2016 (Feinstein, D-CA) (S. 2016) is a competing drought relief measure, introduced by Senator Feinstein and the subject of a concurrent board letter for the Board’s consideration. While it is difficult to quantify the different water supply impacts to Metropolitan under S. 2016 (Feinstein) and H.R. 3964 (Valadao), there are important qualitative differences between the two bills. First, H.R. 3964 pursues a strategy of remedying water supply shortages during the drought (and later on) by rolling back ESA and environmental protection requirements. S. 2016, in contrast, tries to alleviate drought impacts within the framework of existing species and environmental protection laws.

Second, S. 2016 focuses on specific drought relief measures that will produce more immediate water supply benefits. H.R. 3964 contains drought relief measures, but it also seeks to fundamentally reform the water law regime in California with measures that are not short-term responses to immediate drought conditions (like providing for 40-year instead of 25-year water contract renewal periods).

Third, there is a stark difference in terms of “federalism” and the role of state law. Contrary to the long tradition in federal reclamation law of preserving state law whenever possible, H.R. 3964 takes an aggressive approach in preempting state law, and asserting federal supremacy over state law. In contrast, S. 2016 does not preempt any state laws.

Fourth, it appears that H.R. 3964 may be more likely than S. 2016 to generate future litigation. This is because H.R. 3964 contains several very general and ambiguous legal mandates in extremely important and controversial areas. For example, the mandate in Section 401(3) of H.R. 3964 that actions to protect species under the ESA “be applied in a manner that is consistent with water right priorities established by State law”, is bound to generate future controversy over whether or not a species-protective action is “consistent” with state water right priorities. Similarly, the prohibition in section 108(b) against species-protective conditions that “restrict the exercise” of state water rights may also spawn future litigation over whether a measure is sufficiently stringent to “restrict” the exercise of water rights. In contrast, S. 2016 avoids the more vague and general regulatory criteria that are in H. R. 3964, and instead provides greater specificity and detail about particular emergency measures, operational criteria, financial assistance programs, and expedited procedures to be used to alleviate the drought.

Finally, if one assumes that H.R. 3964 would be successful in preventing a shift in species-protection burdens from the CVP to the SWP, then H.R. 3964, with its mandate that the CVP and SWP be operated in accordance with standards in the 1994 Principle of Agreement, could provide greater water supply benefits than S. 2016.

Status of H.R. 3964

H.R. 3964 passed the House on February 5, 2014, largely along party lines, by a vote of 229-191, with eleven representatives not voting. The bill will be heard next in the Senate. The bill is opposed by Governor Brown and Senators Feinstein and Boxer. The White House’s February 5, 2014 Statement of Administration Policy strongly

opposes H.R. 3964 and states that the President's senior advisers would recommend that he veto the bill if it is presented to him.

Policy

Minute Item 46637, dated April 11, 2006, adopting a set of Delta policy principles ensuring a foundation for development of future positions and provide guidance to staff

Minute Item 47135, dated June 12, 2007, adopting Metropolitan's Delta Action Plan

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA because the proposed action involves proposals for legislation to be enacted by the state legislature (Section 15378(b)(1) of the State CEQA Guidelines). In addition, where it can be seen with certainty that there is no possibility that the proposed action in question may have a significant effect on the environment, the proposed action is not subject to CEQA (Section 15061(b)(3) of the State CEQA Guidelines).

The CEQA determination is: Determine that the proposed action is not subject to the provisions of CEQA pursuant to Sections 15378(b)(1) and 15061(b)(3) of the State CEQA Guidelines.

CEQA determination for Option #2:

None required

Board Options

Option #1

Adopt the CEQA determination that the proposed action is not subject to CEQA and authorize the General Manager to take a watch position on H.R. 3964.

Fiscal Impact: Unknown

Business Analysis: If H.R. 3964 became law, it could provide greater water supplies to state and federal water contractors.

Option #2

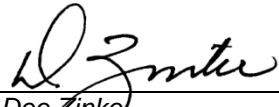
Take a position on H.R. 3964.

Fiscal Impact: Unknown

Business Analysis: If H.R. 3964 became law, it could provide greater water supplies to state and federal water contractors.


Staff Recommendation

Option #1


 Dee Zinke
 Deputy General Manager, External Affairs

3/4/2014

Date


 Jeffrey Kightlinger
 General Manager

3/4/2014

Date

Attachment 1 – H.R. 3964 (Valadao, R-CA) as introduced February 6, 2014

Calendar No. 306

113TH CONGRESS
2D SESSION

H. R. 3964

IN THE SENATE OF THE UNITED STATES

FEBRUARY 6, 2014

Received; read the first time

FEBRUARY 10, 2014

Read the second time and placed on the calendar

AN ACT

To address certain water-related concerns in the Sacramento-San Joaquin Valley, and for other purposes.

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

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

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

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

Sec. 1. Short title; table of contents.

TITLE I—CENTRAL VALLEY PROJECT WATER RELIABILITY

2

- 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.
- Sec. 112. Warren Act contracts.
- Sec. 113. Additional Warren Act contracts.
- Sec. 114. Pilot Program to Protect Native Anadromous Fish in the Stanislaus River.
- Sec. 115. San Luis Reservoir.

TITLE II—SAN JOAQUIN RIVER RESTORATION

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

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

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

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

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

TITLE V—MISCELLANEOUS

- Sec. 501. Precedent.
- Sec. 502. No effect on Proclamation of State of Emergency.
- Sec. 503. Wild and Scenic Rivers Act.
- Sec. 504. Fisheries disaster declaration.

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 2018, 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
24 those rivers and their tributaries to reproduce after matur-
25 ing in San Francisco Bay or the Pacific Ocean;”;

4

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

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

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

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

9 **SEC. 103. CONTRACTS.**

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

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

15 (2) by striking the language of the section and
16 by adding:

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

22 “(b) **ADMINISTRATION OF CONTRACTS.**—Except as
23 expressly provided by this Act, any existing long-term re-
24 payment or water service contract for the delivery of water

1 from the Central Valley Project shall be administered pur-
2 suant to the Act of July 2, 1956 (70 Stat. 483).

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

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

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

13 (1) In subsection (a)—

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

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

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

6

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,

7

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”;

9

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

10

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

11

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, 2015, \$4 per megawatt-
17 hour for Central Valley Project power sold to power con-
18 tractors (October 2015 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, 2015,
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, 2015,
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, 2015, 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, 2018
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, 2015. 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, 2018, 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 **SEC. 112. WARREN ACT CONTRACTS.**

7 (a) IN GENERAL.—Not later than 30 days after the
8 date of the enactment of this Act, the Secretary of the
9 Interior shall offer to the Oakdale Irrigation District and
10 the South San Joaquin Irrigation District (hereafter in
11 this section referred to as the “districts”) a contract ena-
12 bling the districts to collectively impound and store up to
13 200,000 acre-feet of their Stanislaus River water rights
14 in the New Melones Reservoir in accordance with the
15 terms and conditions of sections 1 through 3 of the Act
16 of February 21, 1911 (43 U.S.C. 523–525; commonly
17 known as the “Warren Act”); provided that before offer-
18 ing any such contract, the Secretary has determined that
19 the amount of water to be impounded and stored under
20 the contract will not directly or indirectly result in any
21 redirected adverse water supply or fiscal impacts to any
22 Central Valley Project contractor related to the Sec-
23 retary’s operation of the Central Valley Project to meet
24 legal obligations imposed by or through any State or Fed-
25 eral agency, including but not limited to those legal obliga-

1 tions emanating from the Endangered Species Act of 1973
2 (16 U.S.C. 1531, et seq.), the Water Pollution Control Act
3 (33 U.S.C. 1251, et seq., commonly known as the “Clean
4 Water Act” pursuant to the 1977 amendments, Public
5 Law 95–217), and the Porter-Cologne Water Quality Con-
6 trol Act (Cal. Water Code 13000, et seq.).

7 (b) TERMS AND CONDITIONS.—The terms and condi-
8 tions of any contract entered into under subsection (a)
9 shall—

10 (1) be for a term of not less than 10 years; and

11 (2) expressly provide that—

12 (A) the districts may use any water im-
13 ponded and stored in the New Melones Res-
14 ervoir for any legal purpose under California
15 law, including use within the boundaries of ei-
16 ther district, transfer to and reasonable and
17 beneficial use by a person or entity not located
18 within the boundaries of either district, and for
19 instream use in the Stanislaus River, the San
20 Joaquin River, or the Sacramento-San Joaquin
21 River Delta; and

22 (B) any water impounded and stored by ei-
23 ther district shall not be released or withdrawn
24 if the end of month September storage level for
25 New Melones Reservoir is projected to be equal

1 to or below 300,000 acre-feet, but in such event
2 the impounded and stored water shall be re-
3 tained in the New Melones Reservoir for use by
4 the districts in the following year, subject to the
5 same 300,000 acre-foot minimum storage re-
6 quirement, and without additional payment
7 being required.

8 (c) CONSERVATION ACCOUNT.—Any water im-
9 pounded and stored in the New Melones Reservoir by ei-
10 ther district under the contract shall not be considered or
11 accounted as water placed in the districts' conservation
12 account, as that account is defined and explained in the
13 August 30, 1988 Stipulation and Agreement entered into
14 by and between the Bureau of Reclamation and the dis-
15 tricts.

16 **SEC. 113. ADDITIONAL WARREN ACT CONTRACTS.**

17 (a)) IN GENERAL.—Not later than 30 days after the
18 date of the enactment of this Act, the Secretary of the
19 Interior shall develop and offer to the Calaveras County
20 Water District (hereafter in this section referred to as the
21 “CCWD”) a contract enabling the CCWD to impound and
22 store up to 100,000 acre-feet of their Stanislaus River
23 water rights in the New Melones Reservoir in accordance
24 with the terms and conditions of sections 1 through 3 of
25 the Act of February 21, 1911 (43 U.S.C. 523–525; com-

1 monly known as the “Warren Act”). This stored water
2 may be obtained for use by CCWD at a point, or points
3 determined convenient to the District.

4 (b) TERMS AND CONDITIONS.—The terms and condi-
5 tions of any contract entered into under subsection (a)
6 shall—

7 (1) be for a term of not less than 10 years; and

8 (2) expressly provide that—

9 (A) the CCWD may use any water im-
10 pounded and stored in the New Melones Res-
11 ervoir for any legal purpose under California
12 law, including use within the boundaries of the
13 CCWD, transfer to and reasonable and bene-
14 ficial use by a person or entity not located with-
15 in the boundaries of CCWD, and for instream
16 use in the Stanislaus River, the San Joaquin
17 River, or the Sacramento-San Joaquin River
18 Delta; and

19 (B) any water impounded and stored by ei-
20 ther district shall not be released or withdrawn
21 if the end of month September storage level for
22 New Melones Reservoir is projected to be equal
23 to or below 300,000 acre-feet, but in such event
24 the impounded and stored water shall be re-
25 tained in the New Melones Reservoir for use by

1 the districts in the following year, subject to the
2 same 300,000 acre-foot minimum storage re-
3 quirement, and without additional payment
4 being required.

5 **SEC. 114. PILOT PROGRAM TO PROTECT NATIVE ANAD-**
6 **ROMOUS FISH IN THE STANISLAUS RIVER.**

7 (a) ESTABLISHMENT OF NON-NATIVE PREDATOR
8 FISH REMOVAL PROGRAM.—The Commissioner and dis-
9 tricts, in consultation with the National Marine Fisheries
10 Service, the United States Fish and Wildlife Service, and
11 the California Department of Fish and Wildlife, shall
12 jointly develop and conduct a pilot non-native predator
13 fish removal program to remove non-native striped bass,
14 smallmouth bass, largemouth bass, black bass, and other
15 non-native predator fishes from the Stanislaus River. The
16 pilot program shall—

17 (1) be scientifically based;

18 (2) include methods to quantify the number and
19 size of predator fishes removed each year, the im-
20 pact of such removal on the overall abundance of
21 predator fishes, and the impact of such removal on
22 the populations of juvenile anadromous fish found in
23 the Stanislaus River by, among other things, evalu-
24 ating the number of juvenile anadromous fish that

1 migrate past the rotary screw trap located at
2 Caswell;

3 (3) use wire fyke trapping, portable resistance
4 board weirs, and boat electrofishing, which are the
5 most effective predator collection techniques that
6 minimize affects to native anadromous fish;

7 (4) be developed, including the application for
8 all necessary scientific research and species enhance-
9 ment permits under section 10(a)(1) of the Endan-
10 gered Species Act of 1973 (16 U.S.C. 1539(a)(1)),
11 for the performance of the pilot program, not later
12 than 6 months after the date of the enactment of
13 this Act;

14 (5) be implemented on the first business day of
15 the calendar year following the issuance of all nec-
16 essary scientific research and species enhancement
17 permits needed to begin the pilot program; and

18 (6) be implemented for a period of seven con-
19 secutive calendar years.

20 (b) MANAGEMENT.—The management of the pilot
21 program shall be the joint responsibility of the Commis-
22 sioner and the districts. Such parties shall work collabo-
23 ratively to insure the performance of the pilot program,
24 and shall discuss and agree upon, among other things,
25 changes in the structure, management, personnel, tech-

1 niques, strategy, data collection, reporting and conduct of
2 the pilot program.

3 (c) CONDUCT.—

4 (1) IN GENERAL.—At the election of the dis-
5 tricts, the pilot program may be conducted by their
6 own personnel, qualified private contractors hired by
7 the districts, personnel of, on loan to, or otherwise
8 assigned to the Bureau of Reclamation, or a com-
9 bination thereof.

10 (2) PARTICIPATION BY THE BUREAU OF REC-
11 LAMATION.—In the event the districts elect to con-
12 duct the program using their own personnel or quali-
13 fied private contractors hired by them, the Commis-
14 sioner has the option to assign an employee of, on
15 loan to, or otherwise assigned to the Bureau of Rec-
16 lamation, to be present for all activities performed in
17 the field. Such presence shall insure compliance with
18 the agreed upon elements specified in subsection (b).
19 The districts shall pay 100 percent of the cost of
20 such participation as specified in subsection (d).

21 (3) TIMING OF ELECTION.—The districts shall
22 notify the Commissioner of their election on or be-
23 fore October 15 of each calendar year of the pilot
24 program, which election shall apply to the work per-
25 formed in the subsequent calendar year.

1 (d) FUNDING.—

2 (1) ANNUAL FUNDING.—The districts shall be
3 responsible for 100 percent of the cost of the pilot
4 program. On or before December 1 of each year of
5 the pilot program, the Commissioner shall submit to
6 the districts an estimate of the cost to be incurred
7 by the Bureau of Reclamation in the following cal-
8 endar year, if any, including the cost of any data
9 collection and posting under subsection (e). If an
10 amount equal to the estimate is not provided to the
11 reclamation fund identified in section 3 of the Act
12 of February 21, 1911 (43 U.S.C. 525), or any other
13 fund as directed by the Commissioner, by the dis-
14 tricts on or before December 31 of each year, (a) the
15 Bureau of Reclamation shall have no obligation to
16 conduct the pilot program activities otherwise sched-
17 uled, and (b) the districts shall be prohibited from
18 conducting any aspect of the pilot program, until full
19 payment is made by the districts.

20 (2) ACCOUNTING.—On or before September 1
21 of each calendar year, the Commissioner shall pro-
22 vide an accounting of the prior calendar year's ex-
23 penses to the districts. If the estimate paid by the
24 districts was less than the actual costs incurred by
25 the Bureau of Reclamation, the districts shall have

1 until September 30 of that calendar year to pay the
2 difference to the reclamation fund. If the estimate
3 paid by the districts was greater than the actual
4 costs incurred by the Bureau of Reclamation, then
5 a credit shall be provided to the districts, which shall
6 be deducted from the estimate payment the districts
7 must make for the work performed by the Bureau
8 of Reclamation, if any, in the next calendar year.

9 (e) REPORTING AND EVALUATION.—

10 (1) IN GENERAL.—On or before the 15th day
11 of each month, the Commissioner shall post on the
12 website of the Bureau of Reclamation a tabular
13 summary of the raw data collected in the prior
14 month.

15 (2) REPORT.—On or before June 30 of the cal-
16 endar year following the completion of the program,
17 the Commissioner and districts shall jointly publish
18 a peer reviewed report that—

19 (A) discusses the findings and conclusions
20 of the pilot program;

21 (B) synthesizes the data collected under
22 paragraph (1); and

23 (C) makes recommendations for further
24 study and action.

25 (f) PERMITS PROCESS.—

1 (1) Not later than 180 days after filing of an
2 application by the Commissioner and the districts,
3 the Secretary of the Interior, the Secretary of Com-
4 merce, or both, as appropriate, shall issue all nec-
5 essary scientific research and species enhancement
6 permits under section 10(a)(1) of the Endangered
7 Species Act (16 U.S.C. 153(9)(a)(1)), for the per-
8 formance of the pilot program.

9 (2) Any permit application that is not approved
10 by the Secretary of the Interior, Secretary of Com-
11 merce, or both, as appropriate, for any reason, with-
12 in 180 days after receiving the application, shall be
13 deemed approved.

14 (3) All permits issued shall be in the name of
15 the Bureau of Reclamation and the districts.

16 (4) Districts may delegate the authority to ad-
17 minister the permit authority to any qualified pri-
18 vate contractor retained in accordance with sub-
19 section (c).

20 (5) The pilot program, including amendments
21 thereto by the appropriate Federal and State agen-
22 cies, shall constitute a conservation plan that com-
23 plies with the requirements of section 10(a)(2) of
24 the Endangered Species Act of 1973 (16 U.S.C.
25 1539(a)(2)).

1 (g) NEPA.—Section 102(2)(C) of the National Envi-
2 ronmental Policy Act of 1969 (42 U.S.C. 4332(2)(C))
3 shall not apply with respect to section 402 and the
4 issuance of any permit under this subsection during the
5 seven year period beginning on the date of the implemen-
6 tation of the pilot program.

7 (h) RESTRICTIONS.—Any restriction imposed under
8 California law on the catch, take, or harvest of any non-
9 native or introduced aquatic or terrestrial species that
10 preys upon anadromous fish and that occupies or is found
11 in the Stanislaus River is hereby void and is preempted.

12 (i) DEFINITIONS.—For the purposes of this section:

13 (1) ANADROMOUS FISH.—

14 (A) The term “anadromous fish” as ap-
15 plied to the Stanislaus River and the operation
16 of New Melones—

17 (i) means those native stocks of salm-
18 on (including steelhead) that—

19 (I) as of October 30, 1992 were
20 present in and had not been extir-
21 pated from the Stanislaus River, and

22 (II) which ascend the Stanislaus
23 River to reproduce after maturing in
24 San Francisco Bay or the Pacific
25 Ocean; and

1 (ii) does not mean any stock, strain or
2 member of American shad, sockeye salmon,
3 or striped bass.

4 (B) The definition of anadromous fish pro-
5 vided in section 3403(a) of the Central Valley
6 Project Improvement Act (Public Law 102-
7 575) shall not apply to the operation of New
8 Melones Dam and Reservoir, or to any Federal
9 action in the Stanislaus River.

10 (2) COMMISSIONER.—The term “Commis-
11 sioner” means the Commissioner of the Bureau of
12 Reclamation.

13 (3) DISTRICTS.—The term “districts” means
14 the Oakdale Irrigation District and the South San
15 Joaquin Irrigation District.

16 (4) PILOT PROGRAM.—The term “program”
17 means the pilot non-native predator removal pro-
18 gram established under this section.

19 (j) SUNSET.—The authorities provided under this
20 section shall expire seven years after the implementation
21 of the pilot program.

22 **SEC. 115. SAN LUIS RESERVOIR.**

23 In connection with operations of the Central Valley
24 Project, California, if San Luis Reservoir does not fill by
25 the last day of February, the Secretary of the Interior

1 shall permit any entity with an agricultural water service
2 or repayment contract for the delivery of water from the
3 Delta Division or the San Luis Unit to reschedule into
4 the immediately following contract year (March 1 through
5 the last day of February) any unused Central Valley
6 Project water previously allocated for irrigation purposes.
7 If water remaining in federal storage in San Luis Res-
8 ervoir on the last day of February is insufficient to meet
9 all rescheduling requests, the Secretary shall apportion,
10 based on contract quantity, among all such contractors
11 that request to reschedule water all water remaining in
12 San Luis Reservoir on the last day of February. The Sec-
13 retary shall thereafter make all reasonable efforts to make
14 available additional rescheduled water; provided that such
15 efforts shall not interfere with the Central Valley Project
16 operations in the contract year into which Central Valley
17 Project has been rescheduled.

18 **TITLE II—SAN JOAQUIN RIVER**
19 **RESTORATION**

20 **SEC. 201. REPEAL OF THE SAN JOAQUIN RIVER SETTLE-**
21 **MENT.**

22 As of the date of enactment of this title, the Secretary
23 shall cease any action to implement the Stipulation of Set-
24 tlement (Natural Resources Defense Council, et al. v. Kirk

1 Rodgers, et al., Eastern District of California, No. Civ.
2 S–88–1658 LKK/GGH).

3 **SEC. 202. PURPOSE.**

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

8 **SEC. 203. DEFINITIONS.**

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

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

13 “(1) The term ‘Restoration Flows’ means the
14 additional water released or bypassed from Friant
15 Dam to insure that the target flow entering
16 Mendota Pool, located approximately 62 river miles
17 downstream from Friant Dam, does not fall below
18 50 cubic feet per second.”;

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

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

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

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

6 **SEC. 204. IMPLEMENTATION OF RESTORATION.**

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

9 (1) in subsection (a)—

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

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

17 (C) in paragraph (3)—

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

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

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

24 “(2) In each Water Year, commencing in the
25 Water Year starting on March 1, 2015—

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

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

8 “(C) shall release the Restoration Flows in
9 a manner that improves the fishery in the San
10 Joaquin River below Friant Dam, but upstream
11 of Gravelly Ford in existence as of the date of
12 the enactment of this part, and the associated
13 riparian habitat; and

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

22 “(3) Not later than 1 year after the date of the
23 enactment of this section, the Secretary shall develop
24 and implement, in cooperation with the State of
25 California, a reasonable plan, to fully recirculate, re-

1 capture, reuse, exchange, or transfer all Restoration
2 Flows and provide such recirculated, recaptured, re-
3 used, exchanged, or transferred flows to those con-
4 tractors within the Friant Division, Hidden Unit,
5 and Buchanan Unit of the Central Valley Project
6 that relinquished the Restoration Flows so recir-
7 culated, recaptured, reused, exchanged, or trans-
8 ferred. Such a plan shall address any impact on
9 ground water resources within the service area of
10 the Friant Division, Hidden Unit, and Buchanan
11 Unit of the Central Valley Project and mitigation
12 may include ground water banking and recharge
13 projects. Such a plan shall not impact the water
14 supply or water rights of any entity outside the
15 Friant Division, Hidden unit, and Buchanan Unit of
16 the Central Valley Project. Such a plan shall be sub-
17 ject to applicable provisions of California water law
18 and the Secretary's use of Central Valley Project fa-
19 cilities to make Project water (other than water re-
20 leased from Friant Dam pursuant to this part) and
21 water acquired through transfers available to exist-
22 ing south-of-Delta Central Valley Project contrac-
23 tors.”;

24 (2) in subsection (b)—

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

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

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

7 (4) by striking subsection (d) and inserting the
8 following:

9 “(d) MITIGATION OF IMPACTS.—Prior to October 1,
10 2015, the Secretary shall identify—

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

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

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

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

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

4 (7) in subsection (g)—

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

7 (B) by striking “or exchange contract” and
8 inserting “exchange contract, or water rights
9 settlement or holding contracts”;

10 (8) in subsection (h)—

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

12 (B) in paragraph (1)—

13 (i) in the matter preceding subpara-
14 graph (A), by striking “Interim Flows
15 under the Settlement” and inserting “Res-
16 toration Flows under this part”;

17 (ii) in subparagraph (C)—

18 (I) in clause (i), by striking “In-
19 terim” and inserting “Restoration”;
20 and

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

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

25 (iv) by striking subparagraph (E);

1 (C) in paragraph (2)—

2 (i) by striking “Interim” and insert-
3 ing “Restoration”;

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

5 (iii) by striking “(B) exceed” and in-
6 serting “exceed”;

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

9 (E) by striking paragraph (4) and insert-
10 ing the following:

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

19 (9) in subsection (i)—

20 (A) in paragraph (1)—

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

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

45

1 (iii) in subparagraph (B)—

2 (I) by striking “additional
3 amounts authorized to be appro-
4 priated, including the”; and

5 (II) by striking “; and” and in-
6 serting a period; and

7 (iv) by striking subparagraph (C); and
8 (B) by striking paragraph (3); and

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

11 “(k) NO IMPACTS ON OTHER INTERESTS.—No Cen-
12 tral Valley Project or other water other than San Joaquin
13 River water impounded by or bypassed from Friant Dam
14 shall be used to implement subsection (a)(2) unless such
15 use is on a voluntary basis. No cost associated with the
16 implementation of this section shall be imposed directly
17 or indirectly on any Central Valley Project contractor, or
18 any other person or entity, outside the Friant Division,
19 the Hidden Unit, or the Buchanan Unit, unless such costs
20 are incurred on a voluntary basis. The implementation of
21 this part shall not result directly or indirectly in any re-
22 duction in water supplies or water reliability on any Cen-
23 tral Valley Project contractor, any State Water Project
24 contractor, or any other person or entity, outside the
25 Friant Division, the Hidden Unit, or the Buchanan Unit,

1 unless such reductions or costs are incurred on a voluntary
2 basis.

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

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

1 “(n) PROJECT IMPLEMENTATION.—Projects to im-
2 plement this title shall be phased such that each project
3 shall follow the sequencing identified below and include at
4 least the—

5 “(1) project purpose and need;

6 “(2) identification of mitigation measures;

7 “(3) appropriate environmental review; and

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

10 “(A) complete the implementation of miti-
11 gation measures required; and

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

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

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

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

20 (2) in subsection (b)—

21 (A) in paragraph (1)—

22 (i) by striking “(1) IN GENERAL.—
23 The Secretary” and inserting “The Sec-
24 retary”; and

1 (ii) by striking “the Settlement au-
2 thorized by this part” and inserting “this
3 part”; and

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

5 (3) in subsection (c)—

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

8 (B) in paragraph (2)—

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

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

13 (C) in paragraph (3), by striking “section
14 10009(c)” and inserting “section 10009”.

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

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

18 (1) in subsection (a)—

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

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

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

4 (3) in subsection (c)—

5 (A) in paragraph (2), by striking “section
6 10004” and inserting “this part”; and

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

9 (4) in subsection (d)—

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

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

15 **SEC. 207. COMPLIANCE WITH CENTRAL VALLEY PROJECT**
16 **IMPROVEMENT ACT.**

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

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

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

22 (B) by inserting: “and the obligations of
23 the Secretary and all other parties to protect
24 and keep in good condition any fish that may
25 be planted or exist below Friant Dam including

1 any obligations under section 5937 of the Cali-
2 fornia Fish and Game Code and the public
3 trust doctrine, and those of the Secretary and
4 all other parties under the Endangered Species
5 Act of 1973 (16 U.S.C. 1531 et seq.)” before
6 “, provided”; and

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

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

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

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

14 (2) by striking “or the Settlement” before the
15 period and inserting “unless otherwise provided by
16 this part. Any Central Valley Project long-term
17 water service or repayment contractor within the
18 Friant Division, Hidden unit, or Buchanan Unit ad-
19 versely affected by the Secretary’s failure to comply
20 with section 10004(a)(3) of this part may bring an
21 action against the Secretary for injunctive relief or
22 damages, or both.”.

23 **SEC. 209. IMPLEMENTATION.**

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

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

3 (2) in subsection (a)—

4 (A) in paragraph (1)—

5 (i) by striking “the Settlement” the
6 first place it appears and inserting “this
7 part”;

8 (ii) by striking “, estimated to total”
9 and all that follows through “subsection
10 (b)(1),”; and

11 (iii) by striking “provided however,”
12 and all that follows through
13 “\$110,000,000 of State funds”;

14 (B) in paragraph (2)—

15 (i) in subparagraph (A), by striking
16 “(A) IN GENERAL.—The Secretary” and
17 inserting “The Secretary”;

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

19 (C) in paragraph (3)—

20 (i) by striking “Except as provided in
21 the Settlement, to” and inserting “To”;
22 and

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

25 (3) in subsection (b)(1)—

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

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

5 (C) by striking “or the Settlement” before
6 the period;

7 (4) in subsection (c)—

8 (A) in paragraph (1)—

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

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

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

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

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

21 **SEC. 210. REPAYMENT CONTRACTS AND ACCELERATION OF**

22 **REPAYMENT OF CONSTRUCTION COSTS.**

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

25 (1) in subsection (a)—

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

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

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

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

9 (4) in subsection (e)—

10 (A) in paragraph (1)—

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

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

18 (iii) by striking “the Interim Flows or
19 Restoration Flows or is intended to other-
20 wise facilitate the Water Management
21 Goal, as described in the Settlement” and
22 inserting “Restoration Flows”; and

23 (B) in paragraph (2)—

24 (i) by striking “except as provided in
25 paragraph 16(b) of the Settlement” after

1 “Friant Division long-term contractor”;
2 and
3 (ii) by striking “the Interim Flows or
4 Restoration Flows or to facilitate the
5 Water Management Goal” and inserting
6 “Restoration Flows”.

7 **SEC. 211. REPEAL.**

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

10 **SEC. 212. WATER SUPPLY MITIGATION.**

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

13 (1) in paragraph (1), by striking “the Interim
14 or Restoration Flows authorized in part I of this
15 subtitle” and inserting “Restoration Flows author-
16 ized in this part”;

17 (2) in paragraph (2), by striking “the Interim
18 or Restoration Flows authorized in part I of this
19 subtitle” and inserting “Restoration Flows author-
20 ized in this part”; and

21 (3) in paragraph (3)—

22 (A) in subparagraph (A), by striking
23 “meet the Restoration Goal as described in part
24 I of this subtitle” and inserting “recover Res-
25 toration Flows as described in this part”;

1 (B) in subparagraph (C)—

2 (i) by striking “the Interim or Res-
3 toration Flows authorized in part I of this
4 subtitle” and inserting “Restoration Flows
5 authorized in this part”; and

6 (ii) by striking “, and for ensuring ap-
7 propriate adjustment in the recovered
8 water account pursuant to section
9 10004(a)(5)”.

10 **SEC. 213. ADDITIONAL AUTHORITIES.**

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

13 (1) in subsection (b)—

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

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

18 (2) by striking subsection (c).

19 **TITLE III—REPAYMENT CON-**
20 **TRACTS AND ACCELERATION**
21 **OF REPAYMENT OF CON-**
22 **STRUCTION COSTS**

23 **SEC. 301. REPAYMENT CONTRACTS AND ACCELERATION OF**
24 **REPAYMENT OF CONSTRUCTION COSTS.**

25 (a) **CONVERSION OF CONTRACTS.—**

1 (1) Not later than 1 year after enactment, the
2 Secretary of the Interior, upon request of the con-
3 tractor, shall convert all existing long-term Central
4 Valley Project contracts entered under subsection (e)
5 of section 9 of the Act of August 4, 1939 (53 Stat.
6 1196), to a contract under subsection (d) of section
7 9 of said Act (53 Stat. 1195), under mutually agree-
8 able terms and conditions.

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

17 (3) All contracts entered into pursuant to para-
18 graph (1) shall—

19 (A) require the repayment, either in lump
20 sum or by accelerated prepayment, of the re-
21 maining amount of construction costs identified
22 in the most current version of the Central Val-
23 ley Project Schedule of Irrigation Capital Allo-
24 cations by Contractor, as adjusted to reflect
25 payments not reflected in such schedule, and

1 properly assignable for ultimate return by the
2 contractor, no later than January 31, 2015, or
3 if made in approximately equal annual install-
4 ments, no later than January 31, 2018; such
5 amount to be discounted by the Treasury Rate.
6 An estimate of the remaining amount of con-
7 struction costs as of January 31, 2015, as ad-
8 justed, shall be provided by the Secretary of the
9 Interior to each contractor no later than 180
10 days after enactment;

11 (B) require that, notwithstanding sub-
12 section (c)(2), construction costs or other cap-
13 italized costs incurred after the effective date of
14 the converted contract or not reflected in the
15 schedule referenced in subparagraph (A), and
16 properly assignable to such contractor, shall be
17 repaid in not more than 5 years after notifica-
18 tion of the allocation if such amount is a result
19 of a collective annual allocation of capital costs
20 to the contractors exercising contract conver-
21 sions under this subsection of less than
22 \$5,000,000. If such amount is \$5,000,000 or
23 greater, such cost shall be repaid as provided by
24 applicable reclamation law, provided that the

1 reference to the amount of \$5,000,000 shall not
2 be a precedent in any other context; and

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

6 (4) All contracts entered into pursuant to para-
7 graph (2) shall—

8 (A) require the repayment in lump sum of
9 the remaining amount of construction costs
10 identified in the most current version of the
11 Central Valley Project Schedule of Municipal
12 and Industrial Water Rates, as adjusted to re-
13 flect payments not reflected in such schedule,
14 and properly assignable for ultimate return by
15 the contractor, no later than January 31, 2018.
16 An estimate of the remaining amount of con-
17 struction costs as of January 31, 2018, as ad-
18 justed, shall be provided by the Secretary of the
19 Interior to each contractor no later than 180
20 days after enactment; and

21 (B) require that, notwithstanding sub-
22 section (c)(2), construction costs or other cap-
23 italized costs incurred after the effective date of
24 the contract or not reflected in the schedule ref-
25 erenced in subparagraph (A), and properly as-

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

12 (b) FINAL ADJUSTMENT.—The amounts paid pursu-
13 ant to subsection (a) shall be subject to adjustment fol-
14 lowing a final cost allocation by the Secretary of the Inte-
15 rior upon completion of the construction of the Central
16 Valley Project. In the event that the final cost allocation
17 indicates that the costs properly assignable to the con-
18 tractor are greater than what has been paid by the con-
19 tractor, the contractor shall be obligated to pay the re-
20 maining allocated costs. The term of such additional re-
21 payment contract shall be no less than 1 year and no more
22 than 10 years, however, mutually agreeable provisions re-
23 garding the rate of repayment of such amount may be de-
24 veloped by the parties. In the event that the final cost allo-
25 cation indicates that the costs properly assignable to the

1 contractor are less than what the contractor has paid, the
2 Secretary of the Interior is authorized and directed to
3 credit such overpayment as an offset against any out-
4 standing or future obligation of the contractor.

5 (c) APPLICABILITY OF CERTAIN PROVISIONS.—

6 (1) Notwithstanding any repayment obligation
7 under subsection (a)(3)(B) or subsection (b), upon a
8 contractor's compliance with and discharge of the
9 obligation of repayment of the construction costs as
10 provided in subsection (a)(3)(A), the ownership and
11 full-cost pricing limitations of any provision of Fed-
12 eral reclamation law shall not apply to lands in such
13 district.

14 (2) Notwithstanding any repayment obligation
15 under paragraph (3)(B) or paragraph (4)(B) of sub-
16 section (a), or subsection (b), upon a contractor's
17 compliance with and discharge of the obligation of
18 repayment of the construction costs as provided in
19 paragraphs (3)(A) and (4)(A) of subsection (a), such
20 contractor shall continue to pay applicable operation
21 and maintenance costs and other charges applicable
22 to such repayment contracts pursuant to the then-
23 current rate-setting policy and applicable law.

24 (d) CERTAIN REPAYMENT OBLIGATIONS NOT AL-
25 TERED.—Implementation of the provisions of this section

1 shall not alter the repayment obligation of any other long-
2 term water service or repayment contractor receiving
3 water from the Central Valley Project, or shift any costs
4 that would otherwise have been properly assignable to any
5 contractors absent this section, including operations and
6 maintenance costs, construction costs, or other capitalized
7 costs incurred after the date of enactment of this Act, to
8 other such contractors.

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

14 (f) DEFINITION OF TREASURY RATE.—For purposes
15 of this section, “Treasury Rate” shall be defined as the
16 20-year Constant Maturity Treasury rate published by the
17 United States Department of the Treasury as of October
18 1, 2014.

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

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

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

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

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

22 (3) any action that affects the diversion of
23 water or involves the release of water from any Cen-
24 tral Valley Project water storage facility taken by
25 the Secretary or the Secretary of the Department of

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

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

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

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

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

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

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

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

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

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

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

18 (b) PROTECTION OF MUNICIPAL AND INDUSTRIAL

19 SUPPLIES.—Nothing in subsection (a) shall be deemed to:

20 (i) modify any provision of a water service contract that

21 addresses municipal and industrial water shortage policies

22 of the Secretary; (ii) affect or limit the authority of the

23 Secretary to adopt or modify municipal and industrial

24 water shortage policies; (iii) affect or limit the authority

25 of the Secretary to implement municipal and industrial

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

8 (c) DEFINITIONS.—In this section:

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

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

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

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

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

8 **TITLE V—MISCELLANEOUS**

9 **SEC. 501. PRECEDENT.**

10 Congress finds and declares that—

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

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

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

21 **SEC. 502. NO EFFECT ON PROCLAMATION OF STATE OF** 22 **EMERGENCY.**

23 Nothing in this Act shall affect in any way the Proc-
24 lamation of State of Emergency and associated Executive
25 Order issued by Governor Edmund G. Brown, Jr. on Jan-

1 uary 17, 2014, or the authorities granted thereby, includ-
2 ing without limitation the authority of the California State
3 Water Resources Control Board to modify any standards
4 or operational constraints adopted to implement the
5 “Principles for on the Bay-Delta Standards Between the
6 State of California and the Federal Government”, dated
7 December 15, 1994, so as to make additional irrigation
8 and municipal and industrial water supplies available in
9 the Central Valley Project and State Water Project service
10 areas during the state of emergency.

11 **SEC. 503. WILD AND SCENIC RIVERS ACT.**

12 (a) WILD AND SCENIC RIVERS ACT.—Section
13 3(a)(62)(B)(i) of the Wild and Scenic Rivers Act (16
14 U.S.C. 1274(a)(62)(B)(i)) is amended—

15 (1) by striking “the normal maximum” the first
16 place that it appears and all that follows through
17 “April, 1990.” and inserting the following: “the
18 boundary of FERC Project No. 2179 as it existed
19 on February 15, 2013, consisting of a point approxi-
20 mately 2,480 feet downstream of the confluence with
21 the North Fork of the Merced River, consisting of
22 approximately 7.4 miles.”; and

23 (2) by striking “the normal maximum operating
24 pool water surface level of Lake McClure” the sec-
25 ond place that it appears and inserting “the bound-

1 ary of FERC Project No. 2179 as it existed on Feb-
2 ruary 15, 2013, consisting of a point approximately
3 2,480 feet downstream of the confluence with the
4 North Fork of the Merced River”.

5 (b) EXCHEQUER PROJECT.—Section 3 of Public Law
6 102–432 is amended by striking “Act” and all that follows
7 through the period and inserting “Act.”.

8 **SEC. 504. FISHERIES DISASTER DECLARATION.**

9 The Proclamation of State Emergency and associated
10 Executive order issued by Governor Edmund G. Brown,
11 Jr. on January 17, 2014, shall be considered a request
12 by the Governor for purposes of section 312(a) of the
13 Magnuson-Stevens Fishery Conservation and Manage-
14 ment Act (16 U.S.C. 1861a) to determine that a fishery
15 resource disaster exists for fisheries that originate in the
16 State of California.

Passed the House of Representatives February 5,
2014.

Attest:

KAREN L. HAAS,

Clerk.

Calendar No. 306

113TH CONGRESS
2^D SESSION
H. R. 3964

AN ACT

To address certain water-related concerns in the Sacramento-San Joaquin Valley, and for other purposes.

FEBRUARY 10, 2014

Read the second time and placed on the calendar