

104TH CONGRESS
1ST SESSION

H. R. 2738

To make amendments to the the Central Valley Project Improvement Act and to the Reclamation Wastewater and Groundwater Study and Facilities Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 7, 1995

Mr. DOOLITTLE (for himself and Mr. HANSEN) introduced the following bill;
which was referred to the Committee on Resources

A BILL

To make amendments to the the Central Valley Project Improvement Act and to the Reclamation Wastewater and Groundwater Study and Facilities Act, 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 **TITLE I—CENTRAL VALLEY**

4 **PROJECT REFORM**

5 **SEC. 101. SHORT TITLE.**

6 This title may be cited as the “Central Valley Project
7 Reform Act of 1995”.

1 **SEC. 102. PURPOSES.**

2 Section 3402 of the Central Valley Project Improve-
3 ment Act (106 Stat. 4706) is amended by striking sub-
4 section (f) and inserting the following:

5 “(f) to require that the Secretary operate the
6 Central Valley Project in a manner to achieve a rea-
7 sonable balance among competing demands for use
8 of Central Valley Project water, including the re-
9 quirements of fish and wildlife, agricultural, municipi-
10 pal and industrial and power contractors; and

11 “(g) to improve the reliability of Central Valley
12 Project water delivered under municipal and indus-
13 trial water service and repayments contracts.”.

14 **SEC. 103. DEFINITIONS.**

15 (a) ANADROMOUS FISH.—Section 3403(a) of the
16 Central Valley Project Improvement Act (106 Stat. 4707)
17 is amended to read as follows:

18 “(a) the term ‘anadromous fish’ means those
19 stocks of Salmon (including steelhead) that ascend
20 the Sacramento and San Joaquin rivers and their
21 tributaries and the Sacramento-San Joaquin Delta
22 and its tributaries to reproduce after maturing in
23 San Francisco Bay or the Pacific Ocean;”.

24 (b) CENTRAL VALLEY PROJECT WATER.—Section
25 3403(f) of the Central Valley Project Improvement Act
26 (106 Stat. 4707) is amended to read as follows:

1 “(f) the term ‘Central Valley Project water’ (i)
2 means all water that is developed, diverted, stored,
3 or delivered by the Secretary in accordance with the
4 statutes authorizing the Central Valley Project and
5 in accordance with the terms and conditions of water
6 rights permits or licenses acquired by or issued to
7 the United States pursuant to California law; and
8 (ii) to clarify the nature of Sacramento River water
9 rights settlement contracts and to improve the op-
10 portunities for the reasonable and beneficial use of
11 water within counties, watersheds, or other areas of
12 origin as defined by State law, the term ‘Central
13 Valley Project water’ does not include water defined
14 as ‘base supply’ in those certain contracts between
15 the United States and diverters of water from Sac-
16 ramento River sources providing for project water
17 service and agreement on diversion of water, some-
18 times referred to as the Sacramento River water
19 rights settlement contracts;”.

20 (c) REPAYMENT AND WATER SERVICE CON-
21 TRACTS.—Section 3403(k) of the Central Valley Project
22 Improvement Act (106 Stat. 4707) is amended to read
23 as follows:

24 “(k) the terms ‘repayment contract’ and ‘water
25 service contract’ have the same meaning as provided

1 in sections 9(d) and 9(e) of the Reclamation Project
2 Act of 1939 (53 Stat. 1187, 1195), as amended, but
3 such terms do not include those contracts which con-
4 tain terms or agreements for water right settle-
5 ments, such as those on the Sacramento River, or
6 water right exchanges, notwithstanding that such
7 contracts may also include provisions which are the
8 same or similar to those contained in repayment or
9 water service contracts;”.

10 **SEC. 104. LIMITATION ON CONTRACTING AND CONTRACT**
11 **REFORM.**

12 (a) NEW CONTRACTS.—Section 3404(a) of the
13 Central Valley Project Improvement Act (106 Stat. 4708)
14 is amended to read as follows:

15 “(a) NEW CONTRACTS.—Except as provided in sub-
16 section (b) of this section, the Secretary shall not enter
17 into any new short-term, temporary, or long-term con-
18 tracts or agreements for water supply from the Central
19 Valley Project for any purpose other than fish and wildlife
20 before the Secretary has completed appropriate environ-
21 mental review, including the preparation of the environ-
22 mental impact statement required in section 3409 of this
23 title, and has determined that there is sufficient water to
24 meet the existing contractual, and legal obligations of the
25 Secretary relative to the Central Valley Project.”.

1 (b) RENEWAL OF EXISTING LONG-TERM CON-
2 TRACTS.—Section 3404 of the Central Valley Project Im-
3 provement Act (106 Stat. 4708) is amended—

4 (1) by amending subsection (c) to read as fol-
5 lows:

6 “(c) RENEWAL OF EXISTING LONG-TERM CON-
7 TRACTS.—Notwithstanding the provisions of the Act of
8 July 2, 1956 (70 Stat. 483), the Secretary shall, upon
9 request, renew any existing long-term repayment or water
10 service contracts which provide for the delivery of water
11 from the Central Valley Project for a period of twenty-
12 five years and shall, subject to paragraphs (1) and (2) of
13 this subsection, renew such contracts for successive peri-
14 ods of 25 years each.

15 “(1) No such renewals shall be authorized until
16 appropriate environmental review, including the
17 preparation of the environmental impact statement
18 required in section 3409 of this title, has been com-
19 pleted. Contracts which expire prior to the comple-
20 tion of the environmental impact statement required
21 by section 3409 shall, upon request of the other con-
22 tracting party, be renewed for an interim period
23 ending on the date on which the long-term renewal
24 with respect to each such contract becomes effective
25 or the date which is three years after completion of

1 the applicable environmental impact statement re-
2 quired by section 3409, whichever is earlier; except
3 that an interim contract shall automatically be ex-
4 tended beyond that three-year date for the period
5 necessary to provide the contractors with one year
6 for contract negotiations with the Secretary, with
7 such one-year period determined from the time the
8 draft long-term contract is formally presented to the
9 contractor by the Secretary. Such interim renewal
10 contracts shall be modified to comply with existing
11 law, including provisions of this title. Upon request
12 of the other contracting party, the Secretary shall
13 execute an amendment to extend the term of any in-
14 terim renewal contract entered into under this para-
15 graph before the enactment of the Central Valley
16 Project Reform Act of 1995 in accordance with this
17 title. Notwithstanding any other provision of law, all
18 contracts renewed by the Secretary since January 1,
19 1988, and before October 31, 1992, are hereby vali-
20 dated and ratified in all respects as of their respec-
21 tive dates of execution, except that all water deliv-
22 ered pursuant to such renewed contracts shall be
23 subject to payment of the charges mandated in sec-
24 tions 3406(c)(1)(D) and 3407(d) of this title.

1 “(2) Upon renewal of any long-term repayment
2 or water service contract providing for the delivery
3 of water from the Central Valley Project, the Sec-
4 retary shall incorporate all requirements imposed by
5 existing law, including provisions of this title, within
6 such renewed contracts. The Secretary shall also ad-
7 minister all existing, new, and renewed contracts in
8 conformance with the requirements and goals of this
9 title.”; and

10 (2) by adding at the end thereof the following
11 new subsection:

12 “(d) Contracts entered into or renewed pursuant to
13 this section shall, upon request of the other contracting
14 party, include a provision which requires the Secretary to
15 charge such party only for water actually delivered by the
16 Secretary.”.

17 **SEC. 105. WATER TRANSFERS, IMPROVED WATER MANAGE-**
18 **MENT AND CONSERVATION.**

19 (a) **CONDITIONS FOR TRANSFERS.**—The matter pre-
20 ceding subparagraph (A) in section 3405(a)(1) of the
21 Central Valley Project Improvement Act (106 Stat. 4710)
22 is amended to read as follows:

23 “(1) **CONDITIONS FOR TRANSFERS.**—All trans-
24 fers of Central Valley Project water authorized by
25 the subsection shall be subject to review and ap-

1 proval by the Secretary and the contracting district
2 or agency under the conditions specified in this sub-
3 section:”.

4 (b) TECHNICAL AMENDMENT.—Section
5 3405(a)(1)(A) of the Central Valley Project Improvement
6 Act (106 Stat. 4710) is amended by striking “to combina-
7 tion” and inserting “or combination”.

8 (c) REGULATORY AND ENVIRONMENTAL LAWS.—
9 Section 3405(a)(1)(D) of the Central Valley Project Im-
10 provement Act (106 Stat. 4710) is amended by striking
11 “laws, including but not limited to provisions of the Cali-
12 fornia Environmental Quality Act” and inserting “regu-
13 latory and environmental laws”.

14 (d) APPROVAL OF TRANSFER REQUEST.—Subpara-
15 graphs (J), (K), (L), and (M) of section 3405(a)(1) of
16 the Central Valley Project Improvement Act (106 Stat.
17 4711) are amended to read as follows:

18 “(J) The contracting district or agency
19 shall either approve the transfer request subject
20 to reasonable conditions or deny the transfer re-
21 quest subject to making findings supporting a
22 reasonable basis for the denial. The conditions
23 or findings shall only relate to the proposed
24 transfer’s impacts on any of the following:

1 “(i) The quantity and quality of the
2 water supply available to the contracting
3 district or agency and its water users, in-
4 cluding impacts to ground water quantity
5 and quality in the transferor’s service area
6 or areas within the same groundwater
7 basin or areas adjacent thereto.

8 “(ii) The contracting district or agen-
9 cy’s operations, including (but not limited
10 to) the ability of the contracting district or
11 agency to meet its delivery obligations, ob-
12 tain additional water supplies, and under-
13 take conservation measures, exchanges,
14 transfers, ground water storage, water
15 banking arrangements, or conjunctive use
16 programs.

17 “(iii) The contracting district or agen-
18 cy’s financial condition and the cost of pro-
19 viding water service.

20 “(iv) The appropriate maintenance of
21 fallowed land.

22 “(v) Other relevant factors that may
23 create an adverse financial, operations or
24 water supply impact on the contracting

1 district or agency, its water users, or the
2 local community.

3 “(K) The Secretary shall not alter an ap-
4 proval or denial by the contracting district or
5 agency under subparagraph (J) of this section
6 unless the Secretary determines, consistent with
7 paragraph 3405(a)(2) of this title, that such
8 transfer would result in a significant reduction
9 in the quantity or decrease in the quality of
10 water supplies currently used for fish and wild-
11 life purposes, except in the event that the Sec-
12 retary determines pursuant to findings setting
13 forth the basis for such determination that such
14 adverse effects would be more than offset by
15 the benefits of the proposed transfer. In the
16 event of such a determination, the Secretary
17 shall develop and implement alternative meas-
18 ures and mitigation activities as integral and
19 concurrent elements of any such transfer to
20 provide fish and wildlife benefits substantially
21 equivalent to those lost as a consequence of
22 such transfer.

23 “(L) Transfers between Central Valley
24 Project contractors within counties, watersheds,
25 or other areas of origin, as those terms are uti-

1 lized under California law, shall be deemed to
2 meet the conditions set forth in subparagraphs
3 (A) and (I) of this paragraph.

4 “(M) The transfer of ‘base supply’, as that
5 term is defined in Sacramento River water
6 rights settlement contracts, shall be subject
7 only to State law, and the Secretary shall have
8 no authority to approve, disapprove, review,
9 control or otherwise interfere, except as pro-
10 vided by State law, with any transfer of base
11 supply. For an individual or district which holds
12 any contract for Central Valley Project water,
13 in determining the amount under the provisions
14 of the Act of February 21, 1911 (36 Stat. 925;
15 43 U.S.C. 523–525), to be charged for the
16 wheeling or conveyance of base supply water
17 through Central Valley Project facilities, the
18 Secretary shall charge the contractor receiving
19 that water the applicable full operations and
20 maintenance rate or a rate that does not exceed
21 the lowest amount the individual or district
22 would pay for Central Valley Project water
23 through the same facilities at the same time,
24 whichever is greater.”.

1 (e) APPROVAL OF TRANSFERS.—Section
2 3405(a)(2)(C) of the Central Valley Project Improvement
3 Act (106 Stat. 4712) is amended by striking the first sen-
4 tence and inserting the following: “The contracting dis-
5 trict or agency shall approve the transfer unless the trans-
6 fer is not consistent with the terms and conditions of sub-
7 paragraphs (A) through (F) and (I) through (K) of this
8 paragraph. The Secretary shall approve the transfer if the
9 transfer is consistent with paragraphs (H) and (L). The
10 contracting district’s or agency’s decision to approve or
11 disapprove a water transfer shall be final unless appealed
12 to the Secretary as provided by paragraph (4).

13 (f) WATER TRANSFER PROGRAMS.—Section 3405(a)
14 of the Central Valley Project Improvement Act (106 Stat.
15 4711) is amended—

16 (1) by redesignating paragraph (3) as para-
17 graph (5); and

18 (2) by inserting after paragraph (2) the follow-
19 ing new paragraphs:

20 “(3) CONTRACTING DISTRICT OR AGENCY
21 WATER TRANSFER PROGRAMS.—A contracting dis-
22 trict or agency may, and if a water user within the
23 district or agency formally requests approval of a
24 water transfer shall, adopt a water transfer program
25 setting forth reasonable and objective criteria and a

1 procedure, all consistent with the purpose and provi-
2 sions of this section 3405, for reviewing and approv-
3 ing water transfers. The program shall not add con-
4 ditions for approval not otherwise identified in, or
5 restrict the ability to implement water transfers
6 which otherwise meet the conditions of section
7 3405(a)(1).

8 “(4) APPEAL OF CONTRACTING DISTRICT OR
9 AGENCY DETERMINATIONS.—

10 “(A) An interested party may appeal in
11 writing to the Secretary the contracting dis-
12 trict’s or agency’s approval or disapproval of a
13 proposed water transfer made under section
14 3405(a)(2)(C) or adoption of a water transfer
15 program within 30 days of the approval or dis-
16 approval of the transfer or adoption of the pro-
17 gram.

18 “(B) The Secretary shall resolve the ap-
19 peal within 90 days from the date the Secretary
20 is notified of the appeal. The Secretary shall
21 only set aside a district’s or agency’s decision,
22 action, findings, or conclusion if the decision,
23 action, findings, or conclusion are found to be
24 arbitrary, capricious, an abuse of discretion or
25 otherwise not in accordance with this title, or in

1 the case of a proposed water transfer from a
2 district or agency which has adopted a water
3 transfer program pursuant to section
4 3405(a)(3), not in accordance with such pro-
5 gram.

6 “(C) The term ‘interested party’ as used in
7 this subsection shall include the parties to the
8 proposed water transfer, other water users
9 within the contracting district or agency from
10 which the water will be transferred, persons or
11 entities asserting that the transfer would impair
12 that person’s or entity’s water rights.

13 “(D) Nothing in this paragraph shall limit
14 or otherwise affect any judicial or administra-
15 tive remedy otherwise available.”.

16 (g) TRANSFERS AFTER SEPTEMBER 30, 1999.—Sec-
17 tion 3405(a)(5) of the Central Valley Project Improve-
18 ment Act (106 Stat. 4712), as amended by subsection (g)
19 of this section, is amended to read as follows:

20 “(5) TRANSFERS AFTER SEPTEMBER 30, 1999.—
21 Transfers executed after September 30, 1999, shall
22 only be governed by the provisions of sections
23 3405(a)(1)(A)–(C), (E), (F), (G), (H), (I), (K), (L),
24 and (M) of this title, and by State law.”.

1 (h) TRANSFERS, EXCHANGES, AND BANKING AR-
2 RANGEMENTS UNDER PRIOR LAW.—Section 3405(a) of
3 the Central Valley Project Improvement Act (106 Stat.
4 4709), as amended by subsections (g) and (h) of this sec-
5 tion, is amended by adding at the end the following:

6 “(6) TRANSFERS, EXCHANGES, AND BANKING
7 ARRANGEMENTS UNDER PRIOR LAW.—Notwithstand-
8 ing any other provision of law, the authority to make
9 transfers, exchanges, and banking arrangements of
10 Central Valley Project water which could have been
11 conducted prior to the enactment of this title is con-
12 tinued hereby, and such transfers, exchanges, and
13 banking arrangements shall not be subject to, lim-
14 ited, or conditioned by this title.”.

15 (i) MEASUREMENT OF WATER USE REQUIRED.—
16 Section 3405(b) of the Central Valley Project Improve-
17 ment Act (106 Stat. 4712) is amended—

18 (1) in the heading, by striking “METERING”
19 and inserting “MEASUREMENT”; and

20 (2) by inserting after the first sentence the fol-
21 lowing: “The contracting district or agency, not in-
22 cluding contracting districts serving multiple agen-
23 cies with separate governing boards, shall ensure
24 that all water delivery systems within its boundaries
25 measure surface water at the agency’s facilities up

1 to the point the surface water is commingled with
2 other water supplies.”.

3 (j) WATER CONSERVATION STANDARDS.—Section
4 3405 of the Central Valley Project Improvement Act (106
5 Stat. 4709) is amended by striking out subsection (d), re-
6 designating subsections (e) and (f) as subsections (d) and
7 (e), and amending subsections (d) and (e) (as so redesi-
8 gnated) to read as follows:

9 “(d) WATER CONSERVATION STANDARDS.—(1) The
10 Secretary shall establish and administer an office of
11 Central Valley Project water conservation best manage-
12 ment practices that shall, in consultation with the Sec-
13 retary of Agriculture, the California Department of Water
14 Resources, California academic institutions, and Central
15 Valley Project water users, develop criteria for evaluating
16 the adequacy of all water conservation plans developed by
17 project contractors, including those plans required by sec-
18 tion 210 of the Reclamation Reform Act of 1982. In devel-
19 oping the criteria described in this paragraph for refuges,
20 in addition to consulting with the Secretary of Agriculture,
21 the California Department of Water Resources, California
22 academic institutions, and Central Valley Project water
23 users, the Secretary shall consult with the California De-
24 partment of Fish and Game.

1 “(2) Criteria developed pursuant to this subsection
2 shall apply only to Central Valley Project water and shall
3 be established within six months following enactment of
4 this title and shall be reviewed periodically thereafter, but
5 no less than every five years, with the purpose of promot-
6 ing the highest level of water use efficiency reasonably
7 achievable by project contractors using best available cost-
8 effective technology and best management practices. The
9 criteria shall include, but not be limited to agricultural
10 water suppliers’ efficient water management practices de-
11 veloped pursuant to California State law or reasonable al-
12 ternatives. The conservation guidelines and criteria may
13 include only those management practices and conservation
14 measures which (A) are demonstrated by the Secretary to
15 achieve significant water conservation and efficient man-
16 agement of water resources without unreasonably burden-
17 ing project contractors or their water users, (B) are dem-
18 onstrated by the Secretary to be practices or measures
19 that are cost-effective and economically feasible under ap-
20 plicable circumstances and not prohibited by California or
21 local law as of January 1, 1993, and (C) take into consid-
22 eration the amount of water under contract to the project
23 contractor, probable Central Valley Project water supply,
24 economic resources, geography, and other factors relevant
25 to that project contractor.

1 “(3) The Secretary, through the office established
2 under this subsection, shall review and evaluate within 18
3 months following enactment of this title all existing con-
4 servation plans submitted by project contractors to deter-
5 mine whether they meet the conservation and efficiency
6 criteria established pursuant to this subsection.

7 “(4) The Secretary shall approve or disapprove a
8 water conservation plan within 90 days after such plan
9 is submitted under this subsection. A water conservation
10 plan shall be deemed to be approved if the Secretary fails
11 to approve or disapprove such plan within such 90-day pe-
12 riod.

13 “(5) Water conserved by a project contractor or
14 water user pursuant to a plan approved under this sub-
15 section shall accrue, in a manner consistent with State
16 law, to the benefit of such project contractor or water
17 user.

18 “(6) Compliance with conservation guidelines and cri-
19 teria developed pursuant to this subsection shall be
20 deemed compliance with section 210 of the Reclamation
21 Reform Act of 1982 (43 U.S.C. 390jj).

22 “(e) INCREASED REVENUES.—All increased revenues
23 received by the Secretary which exceed the cost of service
24 rate applicable to the delivery of water transferred from

1 irrigation use to municipal and industrial use under sub-
 2 section (a) shall be covered to the Restoration Fund.”.

3 **SEC. 106. FISH, WILDLIFE AND HABITAT RESTORATION.**

4 (a) SATISFACTION OF PURPOSES.—Section 3406 of
 5 the Central Valley Project Improvement Act (106 Stat.
 6 4714) is amended by adding at the end the following new
 7 subsection:

8 “(i) SATISFACTION OF PURPOSES.—By pursuing the
 9 programs and activities authorized by this section, the
 10 Secretary shall be deemed to have met the mitigation, pro-
 11 tection, restoration, and enhancement purposes of section
 12 2 of the Act of August 26, 1937 (ch. 832, 50 Stat. 850),
 13 as amended.”.

14 (b) FISH AND WILDLIFE RESTORATION ACTIVI-
 15 TIES.—(1) The matter preceding subparagraph (A) of sec-
 16 tion 3406(b)(1) of the Central Valley Project Improve-
 17 ment Act (106 Stat. 4714) is amended to read as follows:

18 “(1) assist the State of California in pursuing
 19 its goal of doubling production of anadromous fish
 20 in Central Valley rivers and streams in accordance
 21 with the program specified in the report prepared by
 22 the California Department of Fish and Game enti-
 23 tled ‘Central Valley Salmon and Steelhead Restora-
 24 tion and Enhancement Plan’, dated April 1990,
 25 through the actions specified in this subsection, with

1 priority given to those actions specified in para-
2 graphs (4) through (22): *Provided*, That this goal
3 shall not apply to the San Joaquin River between
4 Friant Dam and the Mendota Pool, for which sepa-
5 rate provision has been made under section 3406(c)
6 of this title: *Provided further*, That in the course of
7 assisting the State of California, the Secretary shall
8 make all reasonable efforts consistent with the re-
9 quirements of this section to address other identified
10 adverse environmental impacts of the Central Valley
11 Project not specifically enumerated in this section.”.

12 (2) Subparagraphs (B) and (C) of section 3406(b)(1)
13 of the Central Valley Project Improvement Act (106 Stat.
14 4714) are amended to read as follows:

15 “(B) As needed to achieve the goals of this
16 program, the Secretary is authorized and di-
17 rected to modify Central Valley Project oper-
18 ations to provide reasonable flows of suitable
19 quality, quantity, and timing to protect all life
20 stages of anadromous fish, except that such
21 flows shall be provided from the quantity of
22 water reserved for fish, wildlife, and habitat
23 restoration purposes under paragraph (2) of
24 this subsection; from the water supplies ac-
25 quired pursuant to paragraph (3) of this sub-

1 section; and from other sources which do not
2 conflict with fulfillment of the Secretary's re-
3 maining contractual obligations to provide
4 Central Valley Project water for other author-
5 ized purposes. Reasonable instream flow needs
6 for all Central Valley Project controlled streams
7 and rivers shall be determined by the Secretary
8 based on recommendations of the United States
9 Fish and Wildlife Service after consultation
10 with the California Department of Fish and
11 Game.

12 “(C) The Secretary shall cooperate with
13 the State of California to ensure that, to the
14 greatest degree practicable, the specific quan-
15 tities of Central Valley Project water reserved
16 and managed for fish and wildlife purposes
17 under this title are credited against any addi-
18 tional obligations of the Central Valley Project
19 which may be imposed by the State of Califor-
20 nia following enactment of this title, including
21 but not limited to increased flow and reduced
22 export obligations which may be imposed by the
23 California State Water Resources Control
24 Board in implementing San Francisco Bay/Sac-
25 ramento-San Joaquin Delta Estuary standards

1 pursuant to the review ordered by the Califor-
2 nia Court of Appeals in *United States v. State*
3 *Water Resources Control Board*, 182 Cal. App.
4 3d 82 (1986), and that, to the greatest degree
5 practicable, the programs and plans required by
6 this title are developed and implemented in a
7 way that avoids inconsistent or duplicative obli-
8 gations from being imposed upon Central Valley
9 Project water and power contractors.”.

10 (3) Section 3406(b)(2) of the Central Valley Project
11 Improvement Act (106 Stat. 4714) is amended to read
12 as follows:

13 “(2) upon enactment of this title, reserve and
14 manage annually 800,000 acre-feet of Central Valley
15 Project water, excluding any Central Valley Project
16 water delivered under the Contract for Exchange of
17 Waters described in subsection (c)(1)(C) of this sec-
18 tion for the purposes of (A) implementing the fish,
19 wildlife, and habitat restoration purposes and meas-
20 ures authorized by this title; (B) assisting the State
21 of California in its efforts to protect the waters of
22 the San Francisco Bay/Sacramento-San Joaquin
23 Delta Estuary; and (C) helping to meet such obliga-
24 tions as may be legally imposed upon the Central
25 Valley Project under State or Federal law following

1 the date of enactment of this title, including (but
2 not limited to) additional obligations under the En-
3 dangered Species Act of 1973: *Provided*, That all
4 Central Valley Project water used to assist the State
5 of California in its efforts to protect the water of the
6 San Francisco Bay/Sacramento-San Joaquin Delta
7 Estuary and to help meet such obligations as may
8 be legally imposed upon the Central Valley Project
9 under State or Federal law following the date of en-
10 actment of this title, including (but not limited to)
11 additional obligations under the Endangered Species
12 Act of 1973, is credited to the amount of Central
13 Valley Project water so reserved under this para-
14 graph: *Provided further*, That the Central Valley
15 Project water reserved under this paragraph shall
16 not be used to increase the flow of water through
17 the San Francisco Bay/Sacramento-San Joaquin
18 Delta Estuary beyond that required to meet the re-
19 quirements of the Bay/Delta Water Quality Control
20 Plan, as may be amended or modified, or the En-
21 dangered Species Act of 1973. To the fullest extent
22 possible and in accordance with section 3411 of this
23 title, after using a quantity of such 800,000 acre-
24 feet of water for fish and wildlife purposes pursuant
25 to this paragraph, the Secretary shall reuse or divert

1 such quantity of water for agricultural or municipal
2 and industrial purposes.

3 “(A) Such quantity of water shall be in ad-
4 dition to the quantities needed to implement
5 subsection (d)(1) of this title and in addition to
6 all water allocated pursuant to paragraph (23)
7 of this subsection for release to the Trinity
8 River for the purposes of fishery restoration,
9 propagation, and maintenance; and shall be
10 supplemented by all water that comes under the
11 Secretary’s control pursuant to subsection
12 (b)(3), sections 3408(h)–(i), and through other
13 measures consistent with paragraph (1)(B) of
14 this subsection.

15 “(B) Such quantity of water shall be man-
16 aged pursuant to reasonable conditions speci-
17 fied by the United States Fish and Wildlife
18 Service after consultation with the Bureau of
19 Reclamation and the California Department of
20 Water Resources, and in cooperation with the
21 California Department of Fish and Game.

22 “(C) The Secretary may temporarily re-
23 duce deliveries of the quantity of water reserved
24 under this paragraph up to 25 percent of such
25 total whenever reductions are imposed upon ag-

1 agricultural water service contractors: *Provided*,
2 That such reductions shall not exceed in per-
3 centage terms the reductions imposed on agri-
4 cultural water service contractors: *Provided fur-*
5 *ther*, That nothing in this subsection or sub-
6 section (d) shall require the Secretary to oper-
7 ate the project in a way that jeopardizes human
8 health or safety.

9 “(D) If the quantity of water reserved
10 under this paragraph, or any portion thereof, is
11 not needed for the purposes of this section,
12 based on a finding by the Secretary, the Sec-
13 retary is authorized to make such water avail-
14 able for other project purposes.”.

15 (4) Section 3406(b)(3) of the Central Valley Project
16 Improvement Act (106 Stat. 4716) is amended to read
17 as follows:

18 “(3) develop and implement a program in co-
19 ordination and in conformance with the plan re-
20 quired under paragraph (1) of this subsection for
21 the acquisition of a water supply to supplement the
22 quantity of water reserved for fish and wildlife pur-
23 poses under paragraph (2) of this subsection and to
24 fulfill the Secretary’s obligations under subsection
25 (d)(2). The program should identify how the Sec-

1 retary intends to utilize, in particular the following
2 options: improvements in or modifications of the op-
3 erations of the project; water banking; conservation;
4 transfers; conjunctive use; and temporary and per-
5 manent land fallowing, including purchase, lease,
6 and option of water, water rights, and associated ag-
7 ricultural land. Purchases of water associated with
8 this program shall be from willing sellers, and shall
9 be Federal nonreimbursable expenditures to the ex-
10 tent they are not funded through the Restoration
11 Fund established in section 3407 of this title.”.

12 (5) Section 3406(b)(8) of the Central Valley Project
13 Improvement Act (106 Stat. 4717) is amended by insert-
14 ing “as appropriate based on best available river specific
15 science,” after “(8)”.

16 (6) Section 3406(b) of the Central Valley Project Im-
17 provement Act (106 Stat. 4714), as amended by para-
18 graph (8) of this subsection, is further amended by strik-
19 ing paragraph (18) and by redesignating paragraphs (19)
20 through (23) as paragraphs (18) through (22), respec-
21 tively.

22 (7) Section 3406(b)(22) of the Central Valley Project
23 Improvement Act (106 Stat. 4716), as amended by para-
24 graph (9) of this subsection, is amended to read as follows:

1 “(22) In order to meet Federal trust respon-
2 sibilities to protect the fishery resources of the
3 Hoopa Valley Tribe, and to meet the fishery restora-
4 tion goals of the Act of October 24, 1984, Public
5 Law 98–541, provide through the Trinity River Di-
6 vision, for water years 1992 through 1996, an
7 instream release of water to the Trinity River of not
8 less than three hundred and forty thousand acre-feet
9 per year for the purposes of fishery restoration,
10 propagation, and maintenance; and:

11 “(A) By September 30, 1996, the Sec-
12 retary, after consultation with the Hoopa Valley
13 Tribe, the Trinity River Restoration Program
14 Task Force, and its Technical Coordinating
15 Committee, shall complete the Trinity River
16 Flow Evaluation Study currently being con-
17 ducted by the United States Fish and Wildlife
18 Service under the mandate of the Secretarial
19 Decision of January 14, 1981, in a manner
20 which ensures the development of recommenda-
21 tions, based on the best available scientific data,
22 regarding permanent instream fishery flow re-
23 quirements and Trinity River Division operat-
24 ing criteria and procedures for the restoration
25 and maintenance of the Trinity River fishery.

1 “(B) Not later than December 31, 1996,
2 the Secretary shall forward the recommenda-
3 tions of the Trinity River Flow Evaluation
4 Study, referred to in subparagraph (A) of this
5 paragraph, to the Committee on Energy and
6 Natural Resources and the Select Committee on
7 Indian Affairs of the Senate and the Committee
8 on Resources of the House of Representatives.
9 If the Secretary and the Hoopa Valley Tribe,
10 after consultation with the Trinity River Res-
11 toration Program Task Force and its Technical
12 Coordinating Committee, concur in these rec-
13 ommendations, any increase to the minimum
14 Trinity River instream fishery releases estab-
15 lished under this paragraph and the operating
16 criteria and procedures referred to in the mat-
17 ter preceding subparagraph (A) shall be imple-
18 mented in accordance with subparagraph (C). If
19 the Hoopa Valley Tribe and the Secretary do
20 not concur, the minimum Trinity River
21 instream fishery releases established under the
22 matter preceding subparagraph (A) shall re-
23 main in effect unless increased by an Act of
24 Congress, appropriate judicial decree, or agree-
25 ment among the Secretary, the Hoopa Valley

1 Tribe, the Trinity River Restoration Program
2 Task Force, and its Technical Coordinating
3 Committee, implemented in accordance with
4 subparagraph (C).

5 “(C) The Secretary may only implement
6 recommendations pursuant to the study re-
7 ferred to in subparagraph (A) relating to
8 instream flows through a rulemaking process
9 under chapter 5 of title 5, United States Code
10 (relating to administrative procedure), with a
11 comment period of not less than 60 days and
12 not more than 180 days. The studies and data
13 on which such recommendations are based shall
14 be available for public review. Any such draft
15 rule shall be published within 180 days after
16 the Secretary forwards the recommendations
17 under subparagraph (B).

18 “(D) Any recommendation implemented
19 pursuant to subparagraph (C) shall provide for
20 a variance in the instream flow to take into ac-
21 count differing hydrologic and reservoir storage
22 conditions.

23 “(E) Costs associated with implementation
24 of this paragraph shall be reimbursable as oper-

1 ation and maintenance expenditures pursuant
2 to existing law.”.

3 (8) Section 3406(c) of the Central Valley Project Im-
4 provement Act (106 Stat. 4721) is amended to read as
5 follows:

6 “(c) SAN JOAQUIN AND STANISLAUS RIVERS.—

7 (1)(A) In furtherance of the purposes of this title, the Sec-
8 retary shall cooperate with the State of California and
9 local agencies and entities that impound and/or divert
10 water tributary to the San Joaquin River in the develop-
11 ment and implementation of projects to—

12 “(i) coordinate the flows in the Stanislaus,
13 Tuolumne, Merced, and San Joaquin Rivers and ex-
14 ports at the Tracy and Banks pumping plants to fa-
15 cilitate increased survival of San Joaquin River chi-
16 nook salmon;

17 “(ii) develop and implement a program in the
18 San Joaquin River and its tributaries to identify, re-
19 store, and improve channel and riffle locations, to
20 clean spawning gravel of fine sediments, and to re-
21 duce sediment input from near stream and water-
22 shed areas due to erosion and land management
23 practices;

24 “(iii)(I) establish a gene bank to ensure protec-
25 tion of San Joaquin River fall-run chinook salmon

1 genetic material in the event of catastrophic loss,
2 (II) selectively harvest hatchery fish to encourage in-
3 creases in wild stocks of San Joaquin River fall-run
4 chinook salmon, (III) mark all hatchery San Joaquin
5 River fall-run chinook salmon to allow their identi-
6 fication in ocean and inland fisheries, (IV) capture
7 and breed wild San Joaquin River fall-run chinook
8 salmon to enhance wild populations, and (V) estab-
9 lish a genetic advisory committee to provide advice
10 to the Secretary on the protection of San Joaquin
11 River fall-run chinook salmon genetic material,
12 which committee shall be composed of experts from
13 academia, fishery management agencies, and water
14 management agencies;

15 “(iv) install a minimum of six telemetry devices
16 on the San Joaquin River and tributary channels for
17 the purposes of estimating the current overall water
18 quality conditions in the San Joaquin Basin, which
19 information shall be made available for water man-
20 agers to coordinate water management decisions;

21 “(v) develop a plan to restore and manage the
22 riparian corridor of the San Joaquin River and its
23 tributaries, including areas on both sides of river
24 channels where flood frequency is sufficient to sus-
25 tain riparian vegetation with the goals to restore

1 areas where the corridor is gone and to develop ac-
2 tion items for riparian vegetation where the value of
3 fish and wildlife is reduced by land use practices,
4 which plan shall be consistent with restoring and
5 maintaining the floodway flow capacities and associ-
6 ated river stages for which levees and other flood
7 protection facilities were designed and built;

8 “(vi) initiate a program of screening or provid-
9 ing other fish protective measures at water diver-
10 sions in the San Joaquin River, its tributaries and
11 estuary, which program will locate, inventory,
12 prioritize and select candidate sites and include in-
13 stallation and long-term maintenance as necessary;

14 “(vii) increase fall flows and install physical
15 and/or mechanical solutions as appropriate in the
16 Stanislaus, Tuolumne, and Merced rivers to attract
17 and provide access to adult San Joaquin River chi-
18 nook salmon and maintain suitable water tempera-
19 tures for spawning: *Provided*, That any increase in
20 flows shall be implemented only through purchase of
21 water from willing sellers, water augmentation
22 projects, and/or additional storage to increase export
23 flexibility or other similar voluntary means: *Provided*
24 *further*, That flow increases shall be integrated with
25 physical and mechanical solutions which can lead to

1 improved guidance flows and water quality in the
2 lower San Joaquin River, such as a barrier at the
3 head of Old River and/or an aeration device at
4 Rough and Ready Island;

5 “(viii) evaluate methods to protect San Joaquin
6 River chinook salmon stocks in the ocean and estua-
7 rine fisheries, mark all hatchery-produced San Joa-
8 quin River chinook salmon, evaluate San Joaquin
9 River chinook salmon ‘shaker’ mortality, and coordi-
10 nate additional salmon management practices which
11 will contribute to increasing salmon reproduction
12 and survivability;

13 “(ix) undertake measures to reduce salmon
14 predator populations in the San Joaquin River, its
15 tributaries, and other areas such as Clifton Court
16 Forebay, including (but not limited to) encouraging
17 predator harvest, voluntary increases in flows during
18 spring outmigration, reducing water temperatures in
19 summer, increasing turbidity during outmigration,
20 removing predator concentrating features, and modi-
21 fying channels to isolate predator habitat; and

22 “(x) provide for the annual installation during
23 October to December of a barrier to divert returning
24 adult San Joaquin River chinook salmon from the
25 San Joaquin River into the Merced River, including

1 acquisition of a site at the confluence of the San
2 Joaquin River and the Merced River for barrier in-
3 stallation and operation;

4 “(xi) provide resources to the San Joaquin
5 River Conservancy to assist in its overall efforts, in-
6 cluding, but not limited to, land acquisition, natural
7 resource surveys, and environmental studies that
8 may be necessary for successful implementation of
9 the San Joaquin River Parkway; and

10 “(xii) provide one-third matching funds for the
11 annual operating budget for the hatchery at the
12 Tuolumne River Salmon Restoration Center.

13 “(B) Funding for the projects described in subpara-
14 graph (A) shall be provided under sections 3407(b) and
15 3407(e). Funds provided pursuant to such sections may
16 not be used for any action to address fish, wildlife and
17 habitat concerns on the San Joaquin River downstream
18 from Friant Dam, including (but not limited to) stream
19 flow, channel, riparian habitat, and water quality improve-
20 ments, until the Secretary determines that such action is
21 reasonable, prudent and feasible. Any such action shall be
22 subject to subparagraph (C).

23 “(C) The Congress hereby confirms that it is and has
24 been its intent to prohibit all releases of water directly
25 from Friant Dam into the San Joaquin River other than

1 for bona fide purposes of (i) flood control, (ii) satisfying
2 the requirements of that certain Contract for Exchange
3 of Waters dated July 27, 1939, between the United States
4 of America, the San Joaquin & Kings River Canal & Irriga-
5 tion Company, Incorporated, the Columbia Canal Com-
6 pany, the San Luis Canal Company and the Firebaugh
7 Canal Company, as amended from time to time, or (iii)
8 satisfying those contractual obligations of the Secretary
9 which existed on the date of enactment of this title to pro-
10 vide water to landowners located between Friant Dam and
11 Gravelly Ford. Therefore, notwithstanding any State or
12 other Federal law, water shall not be released directly
13 from Friant Dam into the San Joaquin River except for
14 the purposes enumerated in clauses (i), (ii), and (iii) of
15 the preceding sentence.

16 “(D) In lieu of releasing water directly from Friant
17 Dam into the San Joaquin River for any purposes of this
18 title, entities receiving Central Valley Project water from
19 the Friant Division of the Central Valley Project shall be
20 assessed, in addition to all other applicable charges, a sur-
21 charge for all Class 1 and Class 2 water delivered in an
22 amount that will result in collection, during each fiscal
23 year, of \$6,000,000. Such surcharge shall be in the
24 amount of \$4.00 per acre-foot and shall not apply to Class
25 2 water delivered in excess of 50 percent of the amount

1 of Class 2 water to which a contracting party is contrac-
2 tually entitled.

3 “(E) Except as expressly provided in subparagraphs
4 (C) and (D), nothing contained in those subparagraphs
5 shall otherwise alter the applicability or inapplicability of
6 State or other Federal law to entities receiving Central
7 Valley Project water from the Friant Division of the
8 Central Valley Project.

9 “(2) The Secretary shall, by not later than September
10 30, 1996, in the course of preparing the Stanislaus River
11 Basin and Calaveras River Water Use Program Environ-
12 mental Impact Statement and in consultation with the
13 State of California, affected counties, and other interests,
14 evaluate and determine existing and anticipated future
15 basin needs in the Stanislaus River Basin. In the course
16 of such evaluation, the Secretary shall investigate alter-
17 native storage, release, and delivery regimes, including but
18 not limited to conjunctive use operations, conservation
19 strategies, exchange arrangements, and the use of base
20 and channel maintenance flows, in order to best satisfy
21 both basin and out-of-basin needs consistent, on a continu-
22 ing basis, with the limitations and priorities established
23 in the Act of October 23, 1962 (76 Stat. 173). For the
24 purposes of this subparagraph, ‘basin needs’ shall include
25 water supply for agricultural, municipal and industrial

1 uses, and maintenance and enhancement of water quality,
2 and fish and wildlife resources within the Stanislaus River
3 Basin as established by the Secretary's June 29, 1981
4 Record of Decision; and 'out-of-basin' needs shall include
5 all such needs outside of the Stanislaus River Basin, in-
6 cluding those of the San Francisco Bay/Sacramento-San
7 Joaquin Delta Estuary and those of the San Joaquin
8 River under paragraph (1) of this subsection.”.

9 (9) Section 3406(d) of the Central Valley Project Im-
10 provement Act (106 Stat. 4722) is amended to read as
11 follows:

12 “(d) CENTRAL VALLEY REFUGES AND WILDLIFE
13 HABITAT AREAS.—(1) In support of the objectives of the
14 Central Valley Habitat Joint Venture and in furtherance
15 of the purposes of this title, the Secretary shall provide,
16 either directly or through contractual agreements with
17 other appropriate parties, firm water supplies of suitable
18 quality to maintain and improve wetland habitat areas on
19 units of the National Wildlife Refuge System in the
20 Central Valley of California; on the Gray Lodge, Los
21 Banos, Volta, North Grasslands, and Mendota state wild-
22 life management areas; and on the Grasslands Resources
23 Conservation District in the Central Valley of California.

24 “(2) Upon enactment of this title and subject to para-
25 graph (8) of this subsection, the quantity and delivery

1 schedules of water measured at the boundaries of each
2 wetland habitat area described in this paragraph shall be
3 in accordance with level 2 of the ‘Dependable Water Sup-
4 ply Needs’ table for those habitat areas as set forth in
5 the Refuge Water Supply Report and two-thirds of the
6 water supply needed for full habitat development for those
7 habitat areas identified in the San Joaquin Basin Action
8 Plan/Kesterson Mitigation Action Plan Report prepared
9 by the Bureau of Reclamation. Such water shall be pro-
10 vided through long-term contractual agreements with ap-
11 propriate parties and shall be supplemented by the incre-
12 ment of water provided for in paragraph (3) of this sub-
13 section: *Provided*, That the Secretary shall be obligated
14 to provide such water whether or not such long-term con-
15 tractual agreements are in effect. In implementing this
16 paragraph, the Secretary shall endeavor to diversify
17 sources of supply in order to minimize possible adverse
18 effects upon Central Valley Project contractors.

19 “(3) Not later than ten years after enactment of this
20 title and subject to paragraph (8) of this subsection, the
21 quantity and delivery schedules of water measured at the
22 boundaries of each wetland habitat area described in this
23 paragraph shall be in accordance with level 4 of the ‘De-
24 pendable Water Supply Needs’ table for those habitat
25 areas as set forth in the Refuge Water Supply Report and

1 the full water supply needed for full habitat development
2 for those habitat areas identified in the San Joaquin
3 Basin Action Plan/Kesterson Mitigation Action Plan Re-
4 port prepared by the Bureau of Reclamation. The quan-
5 tities of water required to supplement the quantities pro-
6 vided under paragraph (2) of this subsection shall be ac-
7 quired by the Secretary in cooperation with the State of
8 California and in consultation with the Central Valley
9 Habitat Joint Venture and other interests in cumulating
10 increments of not less than ten percent per annum
11 through voluntary measures which include water conserva-
12 tion, conjunctive use, purchase, lease, donations, or similar
13 activities, or a combination of such activities which do not
14 require involuntary reallocations of project yield.

15 “(4) All costs associated with implementation of
16 paragraph (2) of this subsection shall be deemed a
17 nonreimbursable Federal expenditure. Incremental costs
18 associated with implementation of paragraph (3) of this
19 subsection shall be fully allocated in accordance with the
20 following formula: 75 percent shall be deemed a
21 nonreimbursable Federal expenditure; and 25 percent
22 shall be allocated to the State of California for recovery
23 through direct reimbursements or through equivalent in-
24 kind contributions.

1 “(5) The Secretary shall temporarily reduce deliveries
2 of the quantity of water dedicated under paragraph (2)
3 of this subsection up to 25 percent of such total whenever
4 reductions are imposed upon agricultural water service
5 contractors served from the same Division of the Central
6 Valley Project: *Provided*, That such reductions shall not
7 exceed in percentage terms the reductions imposed on ag-
8 ricultural water service contractors. For the purpose of
9 shortage allocation, the priority or priorities applicable to
10 the increment of water provided under paragraph (3) of
11 this subsection shall be the priority or priorities which ap-
12 plied to the water in question prior to its transfer to the
13 purpose of providing such increment.

14 “(6) In order to implement the requirements of this
15 subsection and in order to minimize possible adverse im-
16 pacts upon Central Valley Project water contractors, the
17 Secretary is authorized and directed to construct or to ac-
18 quire from non-Federal entities through purchase, lease,
19 or short-term or long-term operating agreement such
20 water conveyance facilities, conveyance capacity, pumping
21 capacity, and wells, within one year after enactment of
22 this paragraph: *Provided*, That such actions are approved
23 by the non-Federal facilities’ owners, and operators. To
24 carry out this obligation, and without limiting other ac-
25 tions, the Secretary shall, in cooperation with the State

1 of California and Central Valley Project water contractors,
2 implement those immediate actions necessary to facilitate
3 the acquisition of pumping and conveyance capacity from
4 the State. Additional water that can be delivered as a re-
5 sult of the acquisition of such additional pumping and con-
6 veyance capacity shall be allocated in a manner which
7 avoids water shortages to Central Valley Project water
8 contractors and users.

9 “(7) The Secretary, in consultation with the State of
10 California, the Central Valley Habitat Joint Venture, and
11 other interests, shall investigate and report on the follow-
12 ing supplemental actions by not later than September 30,
13 1997—

14 “(A) alternative means of improving the reli-
15 ability and quality of water supplies currently avail-
16 able to privately owned wetlands in the Central Val-
17 ley and the need, if any, for additional supplies; and

18 “(B) water supply and delivery requirements
19 necessary to permit full habitat development for
20 water dependent wildlife on one hundred and twenty
21 thousand acres supplemental to the existing wetland
22 habitat acreage identified in Table 8 of the Central
23 Valley Habitat Joint Venture’s ‘Implementation
24 Plan’ dated April 19, 1990, as well as feasible

1 means of meeting associated water supply require-
2 ments.

3 “(8) Not later than 180 days after the date of the
4 enactment of the Central Valley Project Reform Act of
5 1995, the Secretary shall prepare a report in which the
6 Secretary assesses whether the Dependable Water Supply
7 Needs outlined in the Refuge Water Supply Report and
8 the San Joaquin Basin Action Plan/Kesterson Mitigation
9 Action Plan Report prepared by the Bureau of Reclama-
10 tion accurately reflect reasonable dependable water supply
11 needs for refuges, taking into account changes in habitat
12 conditions and any other relevant factors. If the Secretary
13 determines that the Dependable Water Supply Needs in
14 such Reports do not reflect the reasonable dependable
15 water supply needs for refuges, the Reports shall be re-
16 vised to reflect appropriate adjustments in the Dependable
17 Water Supply Needs tables, and deliveries and increments
18 described in paragraphs (2) and (3) of this subsection
19 shall be adjusted accordingly to match the quantities spec-
20 ified in the revised Reports. The report shall be prepared
21 with public involvement, including water contractors and
22 users.

23 “(9) Not later than one year after the date of the
24 enactment of this paragraph, the Secretary shall—

1 “(A) using water measuring devices or other
2 water measuring methods, determine the quantity of
3 all water provided by the Secretary to areas referred
4 to in paragraph (1) of this subsection;

5 “(B) require that such areas be managed in ac-
6 cordance with water conservation plans which incor-
7 porate water conservation best management prac-
8 tices developed under section 3405(d) of this title;
9 and

10 “(C) if the Dependable Water Supply Needs
11 levels specified in paragraphs (2) and (3) of this
12 subsection do not correspond with the demonstrated
13 need following implementation of best management
14 practices under this paragraph, the levels shall be
15 adjusted accordingly to match the level of such dem-
16 onstrated need.”.

17 (10) Section 3406(f) of the Central Valley Project
18 Improvement Act (106 Stat. 4724) is amended by striking
19 “Committees on Insular and Interior Affairs and Mer-
20 chant Marine and Fisheries” and inserting “Committee on
21 Resources”.

22 (11) Section 3406 of the Central Valley Project Im-
23 provement Act (106 Stat. 4714), as amended by sub-
24 section (a) of this section, is further amended by adding
25 at the end the following new subsection:

1 “(j) PURCHASE OF ADDITIONAL WATER.—The Sec-
2 retary may acquire any water needed to carry out this title
3 which is in addition to the water required to be made
4 available under subsections (b)(2), (b)(22), and (d) only
5 by purchase in accordance with State law. Such purchases
6 shall be Federal nonreimbursable expenditures to the ex-
7 tent they are not funded through the Restoration Fund
8 established in section 3407 of this title.”.

9 **SEC. 107. RESTORATION FUND.**

10 (a) RESTORATION FUND ESTABLISHED.—Section
11 3407(a) of the Central Valley Project Improvement Act
12 (106 Stat. 4726) is amended to read as follows:

13 “(a) RESTORATION FUND ESTABLISHED.—

14 “(1) There is hereby established in the Treas-
15 ury of the United States the ‘Central Valley Project
16 Restoration Fund’ (hereafter ‘Restoration Fund’)
17 which shall be available for deposit of donations
18 from any source and revenues provided under sec-
19 tions 3405(e), 3406(c)(1)(D), and 3407(d) of this
20 title. Amounts deposited shall be credited as offset-
21 ting collections. Monies donated to the Restoration
22 Fund by non-Federal entities for specific purposes
23 shall be expended for those purposes only and shall
24 not be subject to appropriation. Notwithstanding
25 any other provision of this title, the Secretary may

1 not directly or indirectly require a donation, or any
2 other payment, to the Restoration Fund, or environ-
3 mental restoration or mitigation fees not otherwise
4 provided by law, as a condition to providing for the
5 storage or conveyance of non-Central Valley Project
6 water pursuant to reclamation laws, or as a condi-
7 tion to the delivery of water pursuant to section 215
8 of the Reclamation Reform Act of 1982 (96 Stat.
9 1270).

10 “(2) The Secretary may utilize amounts col-
11 lected pursuant to section 3406(e)(1)(D) to assist in
12 achieving applicable water quality standards imposed
13 in the San Francisco Bay/Sacramento-San Joaquin
14 Delta Estuary, with emphasis on funding projects
15 described in section 3406(e)(1)(A) which will con-
16 tribute to achieving such standards. The balance of
17 all surcharges collected pursuant to section
18 3406(e)(1)(D) shall be utilized by the Secretary to
19 provide funding to the State of California or other
20 entity described in section 3407(e)(1) to assist in the
21 implementation of all projects described in such sub-
22 paragraph (A) to which funding is not directed pur-
23 suant to the preceding sentence.”.

1 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
2 3407(b) of the Central Valley Project Improvement Act
3 (106 Stat. 4726) is amended—

4 (1) by striking “per year” and inserting “in any
5 one year”; and

6 (2) by inserting “(from willing sellers)” after
7 “acquisition”.

8 (c) MITIGATION AND RESTORATION PAYMENTS BY
9 WATER AND POWER BENEFICIARIES.—Section 3407(c) of
10 the Central Valley Project Improvement Act (106 Stat.
11 4726) is amended to read as follows:

12 “(c) MITIGATION AND RESTORATION PAYMENTS BY
13 WATER AND POWER BENEFICIARIES.—

14 “(1) To the extent required in appropriation
15 Acts, the Secretary shall assess and collect addi-
16 tional annual mitigation and restoration payments,
17 in addition to the charges provided for or collected
18 under sections 3405(a)(1)(B), 3405(e), and
19 3406(e)(1)(D) of this title, consisting of charges to
20 direct beneficiaries of the Central Valley Project
21 under subsection (d) of this section in order to re-
22 cover a portion or all of the costs of fish, wildlife,
23 and habitat restoration programs and projects under
24 this title.

1 “(2) The payment described in this subsection
2 shall be established at amounts that will result in
3 collection, during each fiscal year, of an amount that
4 can be reasonably expected to equal the amount ap-
5 propriated each year, subject to subsection (d) of
6 this section, and in combination with all other re-
7 ceipts identified under this title, to carry out the
8 purposes identified in subsection (b) of this sec-
9 tion.”.

10 (d) ADJUSTMENT AND ASSESSMENT OF MITIGATION
11 AND RESTORATION PAYMENTS.—Paragraphs (1) and (2)
12 of section 3407(d) of the Central Valley Project Improve-
13 ment Act (106 Stat. 4727) are amended to read as follows:

14 “(1) In assessing the annual payments to carry
15 out subsection (c) of this section, the Secretary
16 shall, prior to each fiscal year, estimate the amount
17 that could be collected in each fiscal year pursuant
18 to paragraph (2) of this subsection. The Secretary
19 shall decrease all such payments on a proportionate
20 basis from amounts contained in the estimate so
21 that an aggregate amount is collected pursuant to
22 the requirements of subsection (c)(2) of this section.

23 “(2) The Secretary shall assess and collect the
24 following mitigation and restoration payments, to be

1 covered to the Restoration Fund, subject to the re-
2 quirements of paragraph (1) of this subsection:

3 “The Secretary shall require Central Val-
4 ley Project water and power contractors to
5 make such additional annual payments as are
6 necessary to yield, together with all other re-
7 cepts, the amount required under subsection
8 (c)(2) of this section: *Provided*, That such addi-
9 tional payments shall not exceed \$30,000,000
10 (October 1992 price levels) on a three-year roll-
11 ing average basis: *Provided further*, That such
12 additional annual payments shall be allocated so
13 as not to exceed \$6 per acre-foot (October 1992
14 price levels) for Central Valley Project water for
15 agricultural use delivered by the Central Valley
16 Project and received or transferred by a Central
17 Valley Project water contractor, \$12 per acre-
18 foot (October 1992 price levels) for Central Val-
19 ley Project water for municipal and industrial
20 use delivered by the Central Valley Project and
21 received or transferred by a Central Valley
22 Project contractor, and an amount equal to the
23 annual Central Valley Project power generation
24 (in kilowatt hours), net of project use, multi-
25 plied by 2.0 mils per kilowatt hour (October

1 1992 price levels) for power contractors: *Pro-*
2 *vided further*, That the charge imposed on agri-
3 cultural water shall be reduced, if necessary, to
4 an amount within the probable ability of the
5 water users to pay as determined and adjusted
6 by the Secretary no less than every five years:
7 *Provided further*, That the Secretary shall im-
8 pose an additional annual charge of \$25 per
9 acre-foot (October 1992 price levels) for Central
10 Valley Project water sold or transferred, except
11 water sold or transferred under the right of
12 first refusal, to any State or local agency or
13 other entity which has not previously been a
14 Central Valley Project customer and which con-
15 tracts with the Secretary or any other individ-
16 ual or district receiving Central Valley Project
17 water to purchase or otherwise transfer any
18 such water for its own use for municipal and
19 industrial purposes, to be deposited in the Res-
20 toration Fund: *And provided further*, That upon
21 the completion of the fish, wildlife, and habitat
22 mitigation and restoration actions mandated
23 under section 3406 of this title, the Secretary
24 shall reduce the sums described in subsection
25 (c)(2) of this section to \$35,000,000 per year

1 (October 1992 price levels) and shall reduce the
2 annual mitigation and restoration payment ceil-
3 ing established under this subsection to
4 \$15,000,000 (October 1992 price levels) on a
5 three-year rolling average basis. The amount of
6 the mitigation and restoration payment made
7 by Central Valley Project water and power
8 users, taking into account all funds collected
9 under this title, shall, to the greatest degree
10 practicable, be assessed in the same proportion,
11 measured over a ten-year rolling average, as
12 water and power users' respective allocations
13 for repayment of the Central Valley Project.”.

14 (e) FUNDING TO NON-FEDERAL ENTITIES.—Section
15 3407(e) of the Central Valley Project Improvement Act
16 (106 Stat. 4728) is amended to read as follows:

17 “(e) FUNDING TO NON-FEDERAL ENTITIES.—

18 “(1) Except as provided by paragraph (2), if
19 the Secretary determines that the State of California
20 or an agency or subdivision thereof, an Indian tribe,
21 or a nonprofit entity concerned with restoration, pro-
22 tection, or enhancement of fish, wildlife, habitat, or
23 environmental values is able to assist in implement-
24 ing any action authorized by this title in an efficient,
25 timely, and cost-effective manner, the Secretary is

1 authorized to provide funding to such entity on such
2 terms and conditions as he deems necessary to assist
3 in implementing the identified action.

4 “(2) The use of funding provided by the Sec-
5 retary to the State of California or other entity de-
6 scribed in section 3407(e)(1) pursuant to subsection
7 3407(a)(2) to assist in the implementation of
8 projects described in section 3406(c)(1)(A) shall be
9 as determined by the State of California or such
10 other entity and shall not be subjected to terms and
11 conditions imposed by the Secretary which are unac-
12 ceptable to the State of California or such other en-
13 tity.”.

14 (f) RESTORATION FUND FINANCIAL REPORTS.—
15 Subsection (f) of section 3407 of the the Central Valley
16 Project Improvement Act (106 Stat. 4728) is amended—

17 (1) by striking “Committee on Interior and In-
18 sular Affairs, the Committee on Merchant Marine
19 and Fisheries,” and inserting “Committee on Re-
20 sources”; and

21 (2) by striking “next upcoming” and inserting
22 “current”.

1 **SEC. 108. ADDITIONAL AUTHORITIES.**

2 (a) ELIGIBLE ORGANIZATIONS.—Section 3408(c) of
3 the Central Valley Project Improvement Act (106 Stat.
4 4728.) is amended by striking “nonprofit”.

5 (b) ANNUAL REPORTS.—Section 3408(f) of the
6 Central Valley Project Improvement Act (106 Stat. 4729)
7 is amended—

8 (1) by striking out “Interior and Insular Affairs
9 and Merchant Marine and Fisheries” and inserting
10 in lieu thereof “Resources”; and

11 (2) in the second sentence, by inserting before
12 the period at the end the following: “, including (but
13 not limited to) progress on the plan required by sub-
14 section (j)”.

15 (c) PROJECT YIELD INCREASE AND JUDICIAL DE-
16 CREES.—Subsections (j) and (k) of section 3408 of the
17 Central Valley Project Improvement Act (106 Stat. 4730)
18 are amended to read as follows:

19 “(j) PROJECT YIELD INCREASE.—In order to mini-
20 mize adverse effects upon existing Central Valley Project
21 water contractors resulting from the water reserved for
22 fish and wildlife under this title, and to assist the State
23 of California in meeting its future water needs, the Sec-
24 retary shall, on a priority basis, not later than two years
25 after the date of enactment of the Central Valley Project
26 Reform Act of 1995, develop and submit to Congress, a

1 least-cost plan to increase, as soon as possible but not
2 later than ten years after the date of enactment of this
3 title (except for the construction of new facilities which
4 shall not be limited by the ten year period), the yield of
5 the Central Valley Project by the amount reserved and
6 managed for fish and wildlife purposes under this title and
7 otherwise required to meet the purposes of the Central
8 Valley Project including, without limitation, satisfying
9 contractual obligations. In order to carry out this sub-
10 section, the Secretary is authorized and directed to coordi-
11 nate with the State of California in implementing meas-
12 ures for the long-term resolution of problems in the San
13 Francisco Bay/Sacramento-San Joaquin Delta Estuary.
14 The plan authorized by this subsection shall include (but
15 not be limited to) a description of how the Secretary in-
16 tends to use the following options:

17 “(1) Improvements in, modification of, or addi-
18 tions to the facilities and operations of the project
19 and construction of new water storage facilities.

20 “(2) Conservation.

21 “(3) Transfers.

22 “(4) Conjunctive use.

23 “(5) Purchase of water.

24 “(6) Purchase and idling of agricultural land.

25 “(7) Direct purchase of water rights.

1 Such plan shall include recommendations on appropriate
2 cost-sharing arrangements and shall be developed in a
3 manner consistent with all applicable State and Federal
4 law. Such plan shall also include recommendations for au-
5 thorizing legislation or other measures, if any, needed to
6 implement the intent, purposes, and provisions of this sub-
7 section.

8 “(k) JUDICIAL DECREES.—Except as specifically
9 provided in this title, nothing in this title is intended to
10 alter the terms of any final judicial decree confirming or
11 determining water rights. Notwithstanding any other pro-
12 vision of reclamation law, the judgment entered December
13 30, 1986, by the United States District Court of the East-
14 ern District of California in the consolidated cases entitled
15 Barcellos and Wolfsen, Inc., et al. v. Westlands Water
16 District, et al. (No. CV 79–106 EDP) and Westlands
17 Water District, et al. v. United States, et al. (No. CV F
18 81–245 EDP), shall be deemed an existing long-term
19 water service contract, which shall be renewable pursuant
20 to section 3404(e) of this title.”.

21 (d) TECHNICAL AMENDMENT.—Section 3408(h)(2)
22 of the Central Valley Project Improvement Act (106 Stat.
23 4729) is amended by striking out “(h)(i)” and inserting
24 in lieu thereof “(h)(1)”.

1 (e) STANISLAUS RIVER.—Section 3408 of the Central
2 Valley Project Improvement Act (106 Stat 4730) is
3 amended by adding at the end the following:

4 “(1)(1) The Secretary shall identify the water supply
5 impacts resulting from the reallocation of Stanislaus River
6 water for fish and wildlife purposes under this title, and
7 no later than two years after the date of enactment of
8 the Central Valley Project Reform Act of 1995, develop
9 and implement a plan to provide long term replacement
10 water in an amount equal to the identified water supply
11 impacts on out-of-basin entities and entities adjacent to
12 the watershed which have contracted with the Secretary
13 for water from the New Melones Project. In the event the
14 available yield of the New Melones Reservoir is insufficient
15 to meet the contractual needs of these districts, then the
16 Bureau shall provide an alternative supply at the contrac-
17 tual rate. Allocations for other Central Valley Project con-
18 tractors shall not be reduced as a result of deliveries from
19 New Melones Reservoir or any alternative source to the
20 Stockton East Water District and the Central San Joa-
21 quin Water Conservation District.

22 “(2) The plan developed under paragraph (1) shall
23 include (but not be limited to) utilization of exchange or
24 transfer of water facilitated by the Secretary in accord-
25 ance with California law, other conjunctive use facilities

1 satisfactory to the contracting entities, and/or additional
2 diversion facilities. The construction of such facilities or
3 the allocation of costs associated with such facilities shall
4 be treated as nonreimbursible capital costs of the Bureau
5 and not result in increased allocation of costs to any
6 Central Valley Project contractor.”.

7 **SEC. 109. PREFERENCE CUSTOMER.**

8 The Central Valley Project Improvement Act (106
9 Stat. 4706 et seq.) is amended by adding at the end the
10 following new section:

11 **“SEC. 3413. PREFERENCE CUSTOMER.**

12 “The first preference entitlement to electrical power
13 from the Central Valley Project provided to Calaveras and
14 Tuolumne Counties, California, by the Flood Control Act
15 of 1962 (Public Law 87–874) shall not be reduced by the
16 implementation of this title to a level that would fall below
17 25 percent of the ‘average annual amount of generation’
18 from the New Melones Project (as specified at page 2505,
19 section 2.3, of the January 16, 1985 Federal Register).
20 Such allocation shall not cause a reoperation of the New
21 Melones Project.”.

1 **TITLE** **II—RECLAMATION**
2 **WASTEWATER AND GROUND-**
3 **WATER STUDY AND FACILI-**
4 **TIES**

5 **SEC. 201. SHORT TITLE.**

6 This title may be cited as the “Reclamation Recycling
7 and Water Conservation Act of 1995”.

8 **SEC. 202. WATER RECYCLING PROJECTS.**

9 Section 1602 of the Reclamation Projects Authoriza-
10 tion and Adjustment Act of 1992 (43 U.S.C. 390h) is
11 amended by adding at the end the following:

12 “(e)(1) The Secretary, in cooperation with the appro-
13 priate State and local authorities, is authorized to partici-
14 pate in the design, planning, and construction of the fol-
15 lowing water reclamation and reuse projects:

16 “(A) The North San Diego County Area Water
17 Recycling Project, consisting of projects to reclaim
18 and reuse water in service areas of the San Elijo
19 Joint Powers Authority, the Leucadia County Water
20 District, the City of Carlsbad, and the Olivenhain
21 Water District, California.

22 “(B) The Calleguas Municipal Water District
23 Recycling Project to reclaim and reuse water in the
24 service area of the Calleguas Municipal Water Dis-
25 trict in Ventura County, California.

1 “(C) The Central Valley Water Recycling
2 Project to reclaim and reuse water in the service
3 areas of the Central Valley Reclamation Facility and
4 the Salt Lake County Water Conservancy District in
5 Utah.

6 “(D) The St. George Area Water Recycling
7 Project to reclaim and reuse water in the service
8 area of the Washington County Water Conservancy
9 District in Utah.

10 “(E) The Watsonville Area Water Recycling
11 Project, in cooperation with the City of Watsonville,
12 California, to reclaim and reuse water in the Pajaro
13 Valley in Santa Cruz County, California.

14 “(F) The Southern Nevada Water Recycling
15 Project to reclaim and reuse water in the service
16 area of the Southern Nevada Water Authority in
17 Clark County, Nevada, including an operable unit to
18 reclaim industrial water at the Basic industrial site
19 in Henderson, Nevada.

20 “(G) The Albuquerque Metropolitan Area
21 Water Reclamation and Reuse Study, in cooperation
22 with the city of Albuquerque, New Mexico, to re-
23 claim and reuse industrial and municipal wastewater
24 and reclaim and use naturally impaired ground
25 water in the Albuquerque metropolitan area.

1 “(H) The El Paso Water Reclamation and
2 Reuse Project to reclaim and reuse wastewater in
3 the service area of the El Paso Water Utilities Pub-
4 lic Service Board.

5 “(I) The City of Pasadena, California, re-
6 claimed water project to obtain, store, and use re-
7 claimed water in Pasadena and its service area as
8 well as neighboring communities.

9 “(J) Phase 1 of the Orange County Regional
10 Water Reclamation Project, which will reclaim and
11 reuse water within the service area of the
12 OrangeCounty Water District in California.

13 “(K) The City of West Jordan Water Reuse
14 Project to recycle and reuse water in their service
15 area from the South Valley Water Reclamation Fa-
16 cility Discharge Waters in Utah.

17 “(L) The Hi-Desert Water District in Yucca
18 Valley, California wastewater collection and
19 wastewater treatment system in their service area.

20 “(M) The City of Oceanside, for the design,
21 planning, and construction of a 3,000,000 gallon per
22 day expansion of the Mission Basin Brackish
23 Groundwater Desalting Demonstration Project in
24 Oceanside, California.

1 “(N) The Water Replenishment District of
2 Southern California, city of Long Beach and the Or-
3 ange County Water District in the State of Califor-
4 nia, and other appropriate authorities, to participate
5 in the design, planning, and construction of water
6 reclamation and reuse projects to treat approxi-
7 mately 10,000 acre-feet per year of effluent from the
8 city of Long Beach.

9 “(O) The San Joaquin Area Water Recycling
10 and Reuse Project, in cooperation with the City of
11 Tracy, and consisting of participating projects which
12 will reclaim and reuse water within the County of
13 San Joaquin in California.

14 “(2) The Federal share of the cost of a project de-
15 scribed in paragraph (1) shall not exceed 25 percent of
16 the total cost.

17 “(3) The Secretary shall not provide funds for the
18 operation or maintenance of a project described in para-
19 graph (1).”.

20 **SEC. 203. DESALINATION RESEARCH AND DEVELOPMENT**
21 **PROJECT.**

22 Section 1605 of the Reclamation Projects Authoriza-
23 tion and Adjustment Act of 1992 (43 U.S.C. 390h-3) is
24 amended—

1 (1) by designating the existing text as sub-
2 section (a); and

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

4 “(b)(1) The Secretary, in cooperation with the city
5 of Long Beach, the Central Basin Municipal Water Dis-
6 trict, and the Metropolitan Water District of Southern
7 California may participate in the design, planning, and
8 construction of the Long Beach Desalination Research
9 and Development Project in Los Angeles County, Califor-
10 nia.

11 “(2) The Federal share of the cost of the project de-
12 scribed in paragraph (1) shall not exceed 50 percent of
13 the total.

14 “(3) The Secretary shall not provide funds for the
15 operation or maintenance of the project described in para-
16 graph (1).”.

○

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