

Attachment 4. Summary of the Key Fish And Wildlife Provisions of the Central Valley Project Improvement Act

TITLE 34, PUBLIC LAW 102-575

The following is a summary paraphrasing the key provisions of the Central Valley Project Improvement Act dealing specifically with fish and wildlife resources and their restoration. This summary is provided by the United States Fish and Wildlife Service to enable the reader to quickly understand the environmental importance of this monumental statute. It is intended as an accurate representation of the statute itself but should not be relied on for any specific legal interpretation. If that is desired, the reader should refer to the specific language in the statute itself. For additional information, please contact the United States Fish and Wildlife Service or the Bureau of Reclamation at 2800 Cottage Way, Sacramento, California 95825.

SECTION 3401 TITLE - CENTRAL VALLEY PROJECT IMPROVEMENT ACT

SECTION 3402 PURPOSES

- (a) To protect, restore, and enhance fish, wildlife, and associated habitats in the central valley and trinity river basins of California;
- (b) To address impacts of the Central Valley Project on fish, wildlife and associated habitats;
- (c) To improve the operational flexibility of the Central Valley Project;
- (d) To increase water-related benefits provided by the central valley project to the state of California through expanded use of voluntary water transfers and improved water conservation;
- (e) To contribute to the state of California's interim and long-term efforts to protect the San Francisco Bay/Sacramento-San Joaquin Delta estuary;
- (f) to achieve a reasonable balance among competing demands for use of central valley project water, including the requirements of fish and wildlife, agricultural, municipal and industrial and power contractors.

SECTION 3406 FISH, WILDLIFE, AND HABITAT RESTORATION

- (a) Amends central valley project to make "fish and wildlife mitigation, protection, and restoration" project purposes.
- (b) Fish and wildlife restoration activities. Secretary required to operate cvp to meet all obligations under state and federal law, including water quality decisions and endangered species act requirements. The secretary is further authorized and directed to:

- (1) Develop and implement a program to double the natural production of anadromous fish in the Central Valley over levels that existed 1967-1991
 - (a) First priority given to measures which protect and restore natural channel and riparian habitat values
 - (b) Secretary is authorized and directed to modify cvp operations to provide flows of suitable quality, quantity, and timing to protect all life stages of anadromous fish. Instream flow needs for all CVP streams to be determined based on recommendations from FWS in consultation with CDFG.
 - (c) Secretary shall seek to receive credit for water provided to fish and wildlife against additional obligations imposed on CVP by State of California.
 - (d) Unneeded water returned to project.

In the course of developing the anadromous fish restoration program described above, the secretary is also to make all reasonable efforts to address other identified adverse environmental impacts of the central valley project not specifically addressed elsewhere in the statute.

- (2) Dedicate and manage annually 800,000 acre-feet of CVP yield for the primary purpose of implementing the fish and wildlife purposes and measures authorized by act; to assist in protecting the waters of the estuary; and to help to meet new endangered species act requirements.
 - (a) Water is in addition to water needed for Trinity River and for wildlife refuges, and is to be supplemented as needed.
 - (b) Water is to be managed pursuant to conditions specified by FWS.
 - (c) Water may be temporarily reduced by up to 25 percent due to "hydrologic circumstances".
- (3) Develop and implement a program for the acquisition of a water supply to supplement the quantity of water dedicated to fish and wildlife.

Program should identify how secretary intends to utilize, in particular, the following options:

improvements in or modifications of the operations of the central valley project.

water banking
conservation
transfers
conjunctive use
land following, including purchase, lease and option
of water, water rights and associated agricultural
land

- (4) Develop and implement a program to mitigate fishery impacts associated with the Tracy Pumping Plant.
- (5) Develop and implement a program to mitigate fishery impacts associated with the Contra Costa Pumping Plant.
- (6) Install and operate a temperature control device at Shasta Dam.
- (7) Meet flow standards and objectives and diversion limits set forth in laws and judicial decisions that apply to CVP.
- (8) Use pulse flows to increase survival of migrating anadromous fish.
- (9) Develop and implement a program to eliminate losses of anadromous fish due to flow fluctuations caused by CVP.
- (10) Develop and implement a program to minimize fish passage problems at Red Bluff Diversion Dam.
- (11) Rehabilitate and expand Coleman National Fish Hatchery, modify Keswick fish trap, and improve Keswick dam spillway to prevent trapping of fish.
- (12) Develop and implement a program to provide adequate flow and restore passage on Clear Creek.
- (13) Develop and implement a program to restore and replenish, as needed, spawning gravels on the upper Sacramento, American, and Stanislaus Rivers. Program shall include re-establishment of meander belts and limits on bank protection to avoid further losses of instream and riparian habitat.
- (14) Develop and implement a program for modified operations and new or improved facilities at Delta Cross Channel and Georgiana Slough "when striped bass eggs and larvae are present".

- (15) construct a seasonal barrier at the head of Old River in the Delta to increase survival of young outmigrating salmon.
- (16) establish a comprehensive fish and wildlife monitoring program to assess results and effectiveness of actions.
- (17) develop and implement a program to resolve fish passage problems at anderson cottonwood irrigation district diversion dam.
- (18) If requested, assist California to restore striped bass fishery in the estuary.
- (19) Re-evaluate criteria for carry over storage at Sacramento and Trinity River reservoirs to protect and restore anadromous fish.
- (20) Assist in program to mitigate the fishery impacts at the Glenn-Colusa Irrigation District Pumping Plant. Participation shall include replacement of defective fish screens.
- (21) Assist state in program to avoid losses of juvenile anadromous fish at unscreened or inadequately screened diversions.
- (22) Develop a program to encourage farmers to keep fields flooded for waterfowl habitat creation and CVP yield enhancement. Up to \$2,000,000 annually may be provided as incentives. This provision shall terminate by the year 2002.
- (23) Provide instream releases of not less than 340,000 acre-feet per year to the trinity river through 1996 for fishery purposes.

By September 30, 1996, complete the ongoing Trinity River flow evaluation program. Recommendations of the Trinity River flow evaluation program are to be forwarded to Congress by December 31, 1996. If the Secretary and the Hoopa Valley Tribe concur in these recommendations, any increase inflow is to be implemented accordingly. If the Secretary and the Tribe do not concur, releases shall remain at 340,000 acre-feet per year unless or until increased by act of Congress, judicial decree, or agreement between the Secretary and the Tribe is reached.

(c) The Secretary shall, by September 30, 1996:

- (1) Develop and report to congress on a comprehensive plan to address the fish, wildlife and habitat concerns on the San Joaquin river below Friant Dam. This shall include flows and improvements to restore the anadromous fishery. During plan development and

until congress authorizes, Releases from Friant Dam for such restoration are not permitted.

(This paragraph also provides for a surcharge on Friant contractors until such flows are provided.)

- (2) Determine the existing and future in-basin needs of the Stanislaus River basin, including needs for water supply, water quality, and fish and wildlife.
- (d) The Secretary shall provide firm water supplies to national wildlife refuges, state wildlife management areas, and the Grasslands Resource Conservation District.
- (1) Level 2 supplies (364,000 acre-feet) to state and federal refuges and the grasslands and two-thirds of the full supply needed for the san joaquin action plan (41,221 acre-feet) are to be provided immediately. Amounts are to be delivered to the boundaries of each wetland habitat area. These supplies may be temporarily reduced by up to 25 percent "due to hydrologic circumstances."
 - (2) Within 10 years, the quantities to be delivered shall be increased to level 4 for state and federal refuges and the grasslands (505,650 acre-feet) and full supply for the San Joaquin action plan (61,830 acre-feet). Increases shall be in increments of not less than 10 percent per year. These increases shall be provided from supplies that do not require an involuntary reallocation of CVP yield. Shortages assigned to this increment shall be the same as attached to the water prior to its acquisition.
 - (5) The Secretary is authorized and directed to construct or acquire conveyance capacity to implement this provision. This does not apply to facilities in or around the delta.
 - (6) By 1997, the Secretary shall report on:
 - (A) Means of improving the quality and quantity of water to private wetlands in the central valley; and
 - (B) Water supply and delivery requirements to permit full habitat development on 120,000 acres supplemental to existing wetland habitat acreage identified in the Central Valley Habitat Joint Venture "Implementation Plan".
- (e) Within five years, the Secretary shall investigate and report to congress, with recommendations on the following:

- (1) Measures to maintain suitable temperatures for anadromous fish by controlling or relocating discharges of irrigation return flows or sewage effluent, and by restoring riparian forests;
 - (2) Opportunities for additional hatchery production as needed to supplement or re-establish natural production;
 - (3) Measures to eliminate barriers to salmonid migration;
 - (4) The need for installation and operation of a temperature control device at trinity dam;
 - (5) The need for modified operations and new or improved facilities at delta cross channel and georgiana slough "to assist in the successful migration of anadromous fish"; and
 - (6) Other measures to protect, restore, and enhance natural production of salmon and steelhead in Central Valley tributary streams.
- (f) Within two years, the Secretary shall investigate and report to Congress on the impact the Central Valley Project has had on anadromous fish populations and the fisheries, communities, tribes, businesses, etc. associated with them.
- (g) The Secretary shall develop ecologic and hydrologic models, with supporting data, for the facilities and systems in the Central Valley and Trinity River watersheds.
- (h) This paragraph directs the Secretary to enter into a binding cost-share agreement with the State of California.

SECTION 3407 RESTORATION FUND

This section establishes in the Treasury a restoration fund to be derived from charges and surcharges on project beneficiaries, and from donations. It authorizes the appropriation to the Secretary of up to \$50,000,000 annually to carry out provisions of the act. Not less than 67 percent of the funds appropriated to the secretary shall be to carry out the habitat restoration, improvement, and acquisition provisions of the act. Not more than 33 percent of the funds appropriated shall be to implement the structural features, specifically 3406(b)(4)-(6), (10)-(18), and (20)-(22). Restoration fund monies are to be indexed. The \$50,000,000 limit is to be on a three-year rolling average basis. Collections to the fund in any one year shall be limited to the Amount reasonably expected to be appropriated.

SECTION 3408 ADDITIONAL AUTHORITIES

This section includes the following:

- (b) Electrical energy required for fish and wildlife facilities developed pursuant to the act shall be deemed CVP power.
- (d) Project facilities may be used to bank water, including all or a portion of the water provided for fish and wildlife.
- (h) The Secretary is authorized to purchase land and associated water rights from willing sellers to implement the purposes of the act. Secretary is directed to emphasize lands which, if retired, would improve the quality of agricultural discharges.
- (i) Secretary is authorized to help fund water conservation measures provided that the water conserved will be made available to the Secretary in proportion to his contribution.

Section 3409 ENVIRONMENTAL REVIEW

This section directs the Secretary to prepare and complete a programmatic environmental impact statement on the impacts and benefits of implementing the act.