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**AMENDMENT TO H.R. \_\_\_\_\_, AS REPORTED  
(ENERGY & WATER APPROPRIATIONS BILL, 2010)  
OFFERED BY MR. NUNES OF CALIFORNIA**

At the end of the bill, before the short title, insert the following:

1       SEC. \_\_\_\_\_. (a) Notwithstanding any other provi-  
2 sion of law, the Secretary of the Interior, acting through  
3 the Commissioner of the Bureau of Reclamation, may not  
4 obligate funds appropriated for the current fiscal year or,  
5 any prior Energy and Water Development Appropriations  
6 Act, or funds otherwise made available to the Commis-  
7 sioner of the Bureau of Reclamation, and may not use  
8 discretion, if any, to restrict, reduce or reallocate any  
9 water stored in Central Valley Project Reservoirs or deliv-  
10 ered pursuant to Central Valley Project contracts, includ-  
11 ing execution of said contracts facilitated by the W.C.  
12 “Bill” Jones Pumping Plant, to meet the requirements of  
13 the Endangered Species Act of 1973, unless such water  
14 is acquired or otherwise made available from a willing sell-  
15 er or lessor and the use is in compliance with the laws  
16 of the State of California, including but not limited to,  
17 permitting requirements.

1 (b) Complying with the reasonable and prudent alter-  
2 natives or reasonable and prudent measures and the inci-  
3 dental take limits defined in the biological opinions that  
4 immediately preceded the biological opinions issued by on  
5 December 15, 2008, by the United States Fish and Wild-  
6 life Service on the effects of the Proposed Coordinated Op-  
7 erations of the Federal Central Valley Project and the  
8 California State Water Project on the threatened delta  
9 smelt (*Hypomesus transpacificus*) and the biological opin-  
10 ion issued on June 4, 2009, by the United States National  
11 Marine Fisheries Service Biological Opinion on the Long-  
12 Term Central Valley Project and State Water Project Op-  
13 erations Criteria and Plan shall constitute compliance with  
14 all requirements of the Endangered Species Act of 1973  
15 (16 U.S.C. 1531 et seq.).

16 (c) This section applies only to those Federal agency  
17 and non-Federal actions related to the coordinated oper-  
18 ations of the Central Valley Project and the California  
19 State Water Project.

20 (d) Subsection (b) will remain in effect for 2 years  
21 after the implementation of this Act.

