

114TH CONGRESS
1ST SESSION

H. R. 2898

IN THE SENATE OF THE UNITED STATES

JULY 21, 2015

Received; read twice and referred to the Committee on Energy and Natural
Resources

AN ACT

To provide drought relief in the State of California, 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,*

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

2 (a) SHORT TITLE.—This Act may be cited as the
 3 “Western Water and American Food Security Act of
 4 2015”.

5 (b) TABLE OF CONTENTS.—The table of contents of
 6 this Act is as follows:

Sec. 1. Short title; table of contents.
 Sec. 2. Findings.
 Sec. 3. Definitions.

TITLE I—ADJUSTING DELTA SMELT MANAGEMENT BASED ON
 INCREASED REAL-TIME MONITORING AND UPDATED SCIENCE

Sec. 101. Definitions.
 Sec. 102. Revise incidental take level calculation for delta smelt to reflect new
 science.
 Sec. 103. Factoring increased real-time monitoring and updated science into
 Delta smelt management.

TITLE II—ENSURING SALMONID MANAGEMENT IS RESPONSIVE
 TO NEW SCIENCE

Sec. 201. Definitions.
 Sec. 202. Process for ensuring salmonid management is responsive to new
 science.
 Sec. 203. Non-Federal program to protect native anadromous fish in the
 Stanislaus River.
 Sec. 204. Pilot projects to implement CALFED invasive species program.

TITLE III—OPERATIONAL FLEXIBILITY AND DROUGHT RELIEF

Sec. 301. Definitions.
 Sec. 302. Operational flexibility in times of drought.
 Sec. 303. Operation of cross-channel gates.
 Sec. 304. Flexibility for export/inflow ratio.
 Sec. 305. Emergency environmental reviews.
 Sec. 306. Increased flexibility for regular project operations.
 Sec. 307. Temporary operational flexibility for first few storms of the water
 year.
 Sec. 308. Expediting water transfers.
 Sec. 309. Additional emergency consultation.
 Sec. 310. Additional storage at New Melones.
 Sec. 311. Regarding the operation of Folsom Reservoir.
 Sec. 312. Applicants.
 Sec. 313. San Joaquin River settlement.
 Sec. 314. Program for water rescheduling.

TITLE IV—CALFED STORAGE FEASIBILITY STUDIES

Sec. 401. Studies.

- Sec. 402. Temperance Flat.
- Sec. 403. CALFED storage accountability.
- Sec. 404. Water storage project construction.

TITLE V—WATER RIGHTS PROTECTIONS

- Sec. 501. Offset for State Water Project.
- Sec. 502. Area of origin protections.
- Sec. 503. No redirected adverse impacts.
- Sec. 504. Allocations for Sacramento Valley contractors.
- Sec. 505. Effect on existing obligations.

TITLE VI—MISCELLANEOUS

- Sec. 601. Authorized service area.
- Sec. 602. Oversight board for Restoration Fund.
- Sec. 603. Water supply accounting.
- Sec. 604. Implementation of water replacement plan.
- Sec. 605. Natural and artificially spawned species.
- Sec. 606. Transfer the New Melones Unit, Central Valley Project to interested providers.
- Sec. 607. Basin studies.
- Sec. 608. Operations of the Trinity River Division.
- Sec. 609. Amendment to purposes.
- Sec. 610. Amendment to definition.
- Sec. 611. Report on results of water usage.
- Sec. 612. Klamath project consultation applicants.

TITLE VII—WATER SUPPLY PERMITTING ACT

- Sec. 701. Short title.
- Sec. 702. Definitions.
- Sec. 703. Establishment of lead agency and cooperating agencies.
- Sec. 704. Bureau responsibilities.
- Sec. 705. Cooperating agency responsibilities.
- Sec. 706. Funding to process permits.

TITLE VIII—BUREAU OF RECLAMATION PROJECT STREAMLINING

- Sec. 801. Short title.
- Sec. 802. Definitions.
- Sec. 803. Acceleration of studies.
- Sec. 804. Expedited completion of reports.
- Sec. 805. Project acceleration.
- Sec. 806. Annual report to Congress.

TITLE IX—ACCELERATED REVENUE, REPAYMENT, AND SURFACE WATER STORAGE ENHANCEMENT

- Sec. 901. Short title.
- Sec. 902. Prepayment of certain repayment contracts between the United States and contractors of federally developed water supplies.

TITLE X—SAFETY OF DAMS

- Sec. 1001. Authorization of additional project benefits.

TITLE XI—WATER RIGHTS PROTECTION

Sec. 1101. Short title.
Sec. 1102. Definition of water right.
Sec. 1103. Treatment of water rights.
Sec. 1104. Recognition of State authority.
Sec. 1105. Effect of title.

1 **SEC. 2. FINDINGS.**

2 Congress finds as follows:

3 (1) As established in the Proclamation of a
4 State of Emergency issued by the Governor of the
5 State on January 17, 2014, the State is experi-
6 encing record dry conditions.

7 (2) Extremely dry conditions have persisted in
8 the State since 2012, and the drought conditions are
9 likely to persist into the future.

10 (3) The water supplies of the State are at
11 record-low levels, as indicated by the fact that all
12 major Central Valley Project reservoir levels were at
13 20–35 percent of capacity as of September 25, 2014.

14 (4) The lack of precipitation has been a signifi-
15 cant contributing factor to the 6,091 fires experi-
16 enced in the State as of September 15, 2014, and
17 which covered nearly 400,000 acres.

18 (5) According to a study released by the Uni-
19 versity of California, Davis in July 2014, the
20 drought has led to the fallowing of 428,000 acres of
21 farmland, loss of \$810 million in crop revenue, loss
22 of \$203 million in dairy and other livestock value,
23 and increased groundwater pumping costs by \$454

1 million. The statewide economic costs are estimated
2 to be \$2.2 billion, with over 17,000 seasonal and
3 part-time agricultural jobs lost.

4 (6) CVPIA Level II water deliveries to refuges
5 have also been reduced by 25 percent in the north
6 of Delta region, and by 35 percent in the south of
7 Delta region.

8 (7) Only one-sixth of the usual acres of rice
9 fields are being flooded this fall, which leads to a
10 significant decline in habitat for migratory birds and
11 an increased risk of disease at the remaining wet-
12 lands due to overcrowding of such birds.

13 (8) The drought of 2013 through 2014 con-
14 stitutes a serious emergency that poses immediate
15 and severe risks to human life and safety and to the
16 environment throughout the State.

17 (9) The serious emergency described in para-
18 graph (4) requires—

19 (A) immediate and credible action that re-
20 spects the complexity of the water system of the
21 State and the importance of the water system
22 to the entire State; and

23 (B) policies that do not pit stakeholders
24 against one another, which history shows only

1 leads to costly litigation that benefits no one
2 and prevents any real solutions.

3 (10) Data on the difference between water de-
4 mand and reliable water supplies for various regions
5 of California south of the Delta, including the San
6 Joaquin Valley, indicate there is a significant annual
7 gap between reliable water supplies to meet agricul-
8 tural, municipal and industrial, groundwater, and
9 refuges water needs within the Delta Division, San
10 Luis Unit and Friant Division of the Central Valley
11 Project and the State Water Project south of the
12 Sacramento-San Joaquin River Delta and the de-
13 mands of those areas. This gap varies depending on
14 the methodology of the analysis performed, but can
15 be represented in the following ways:

16 (A) For Central Valley Project South-of-
17 Delta water service contractors, if it is assumed
18 that a water supply deficit is the difference in
19 the amount of water available for allocation
20 versus the maximum contract quantity, then the
21 water supply deficits that have developed from
22 1992 to 2014 as a result of legislative and reg-
23 ulatory changes besides natural variations in
24 hydrology during this timeframe range between
25 720,000 and 1,100,000 acre-feet.

1 (B) For Central Valley Project and State
2 Water Project water service contractors south
3 of the Delta and north of the Tehachapi moun-
4 tain range, if it is assumed that a water supply
5 deficit is the difference between reliable water
6 supplies, including maximum water contract de-
7 liveries, safe yield of groundwater, safe yield of
8 local and surface supplies and long-term con-
9 tracted water transfers, and water demands, in-
10 cluding water demands from agriculture, munic-
11 ipal and industrial and refuge contractors, then
12 the water supply deficit ranges between ap-
13 proximately 2,500,000 to 2,700,000 acre-feet.

14 (11) Data of pumping activities at the Central
15 Valley Project and State Water Project delta pumps
16 identifies that, on average from Water Year 2009 to
17 Water Year 2014, take of Delta smelt is 80 percent
18 less than allowable take levels under the biological
19 opinion issued December 15, 2008.

20 (12) Data of field sampling activities of the
21 Interagency Ecological Program located in the Sac-
22 ramento-San Joaquin Estuary identifies that, on av-
23 erage from 2005 to 2013, the program “takes”
24 3,500 delta smelt during annual surveys with an au-
25 thorized “take” level of 33,480 delta smelt annu-

1 ally—according to the biological opinion issued De-
2 cember 9, 1997.

3 (13) In 2015, better information exists than
4 was known in 2008 concerning conditions and oper-
5 ations that may or may not lead to high salvage
6 events that jeopardize the fish populations, and what
7 alternative management actions can be taken to
8 avoid jeopardy.

9 (14) Alternative management strategies, remov-
10 ing non-native species, enhancing habitat, moni-
11 toring fish movement and location in real-time, and
12 improving water quality in the Delta can contribute
13 significantly to protecting and recovering these en-
14 dangered fish species, and at potentially lower costs
15 to water supplies.

16 (15) Resolution of fundamental policy questions
17 concerning the extent to which application of the
18 Endangered Species Act of 1973 affects the oper-
19 ation of the Central Valley Project and State Water
20 Project is the responsibility of Congress.

21 **SEC. 3. DEFINITIONS.**

22 In this Act:

23 (1) DELTA.—The term “Delta” means the Sac-
24 ramento-San Joaquin Delta and the Suisun Marsh,

1 as defined in sections 12220 and 29101 of the Cali-
2 fornia Public Resources Code.

3 (2) EXPORT PUMPING RATES.—The term “ex-
4 port pumping rates” means the rates of pumping at
5 the C.W. “Bill” Jones Pumping Plant and the Har-
6 vey O. Banks Pumping Plant, in the southern Delta.

7 (3) LISTED FISH SPECIES.—The term “listed
8 fish species” means listed salmonid species and the
9 Delta smelt.

10 (4) LISTED SALMONID SPECIES.—The term
11 “listed salmonid species” means natural origin
12 steelhead, natural origin genetic spring run Chinook,
13 and genetic winter run Chinook salmon including
14 hatchery steelhead or salmon populations within the
15 evolutionary significant unit (ESU) or distinct popu-
16 lation segment (DPS).

17 (5) NEGATIVE IMPACT ON THE LONG-TERM
18 SURVIVAL.—The term “negative impact on the long-
19 term survival” means to reduce appreciably the like-
20 lihood of the survival of a listed species in the wild
21 by reducing the reproduction, numbers, or distribu-
22 tion of that species.

23 (6) OMR.—The term “OMR” means the Old
24 and Middle River in the Delta.

1 (7) OMR FLOW OF -5,000 CUBIC FEET PER
2 SECOND.—The term “OMR flow of -5,000 cubic
3 feet per second” means Old and Middle River flow
4 of negative 5,000 cubic feet per second as described
5 in—

6 (A) the smelt biological opinion; and

7 (B) the salmonid biological opinion.

8 (8) SALMONID BIOLOGICAL OPINION.—The
9 term “salmonid biological opinion” means the bio-
10 logical opinion issued by the National Marine Fish-
11 eries Service on June 4, 2009.

12 (9) SMELT BIOLOGICAL OPINION.—The term
13 “smelt biological opinion” means the biological opin-
14 ion on the Long-Term Operational Criteria and Plan
15 for coordination of the Central Valley Project and
16 State Water Project issued by the United States
17 Fish and Wildlife Service on December 15, 2008.

18 (10) STATE.—The term “State” means the
19 State of California.

1 **TITLE I—ADJUSTING DELTA**
2 **SMELT MANAGEMENT BASED**
3 **ON INCREASED REAL-TIME**
4 **MONITORING AND UPDATED**
5 **SCIENCE**

6 **SEC. 101. DEFINITIONS.**

7 In this title:

8 (1) **DIRECTOR.**—The term “Director” means
9 the Director of the United States Fish and Wildlife
10 Service.

11 (2) **DELTA SMELT.**—The term “Delta smelt”
12 means the fish species with the scientific name
13 *Hypomesus transpacificus*.

14 (3) **SECRETARY.**—The term “Secretary” means
15 the Secretary of the Interior.

16 (4) **COMMISSIONER.**—The term “Commis-
17 sioner” means the Commissioner of the Bureau of
18 Reclamation.

19 **SEC. 102. REVISE INCIDENTAL TAKE LEVEL CALCULATION**
20 **FOR DELTA SMELT TO REFLECT NEW**
21 **SCIENCE.**

22 (a) **REVIEW AND MODIFICATION.**—Not later than
23 October 1, 2016, and at least every five years thereafter,
24 the Director, in cooperation with other Federal, State, and
25 local agencies, shall use the best scientific and commercial

1 data available to complete a review and, modify the meth-
2 od used to calculate the incidental take levels for adult
3 and larval/juvenile Delta smelt in the smelt biological opin-
4 ion that takes into account all life stages, among other
5 considerations—

6 (1) salvage information collected since at least
7 1993;

8 (2) updated or more recently developed statis-
9 tical models;

10 (3) updated scientific and commercial data; and

11 (4) the most recent information regarding the
12 environmental factors affecting Delta smelt salvage.

13 (b) MODIFIED INCIDENTAL TAKE LEVEL.—Unless
14 the Director determines in writing that one or more of
15 the requirements described in paragraphs (1) through (4)
16 are not appropriate, the modified incidental take level de-
17 scribed in subsection (a) shall—

18 (1) be normalized for the abundance of
19 prespawning adult Delta smelt using the Fall
20 Midwater Trawl Index or other index;

21 (2) be based on a simulation of the salvage that
22 would have occurred from 1993 through 2012 if
23 OMR flow has been consistent with the smelt bio-
24 logical opinions;

- 1 (3) base the simulation on a correlation between
2 annual salvage rates and historic water clarity and
3 OMR flow during the adult salvage period; and
4 (4) set the incidental take level as the 80 per-
5 cent upper prediction interval derived from simu-
6 lated salvage rates since at least 1993.

7 **SEC. 103. FACTORING INCREASED REAL-TIME MONITORING**
8 **AND UPDATED SCIENCE INTO DELTA SMELT**
9 **MANAGEMENT.**

10 (a) IN GENERAL.—The Director shall use the best
11 scientific and commercial data available to implement,
12 continuously evaluate, and refine or amend, as appro-
13 priate, the reasonable and prudent alternative described
14 in the smelt biological opinion, and any successor opinions
15 or court order. The Secretary shall make all significant
16 decisions under the smelt biological opinion, or any suc-
17 cessor opinions that affect Central Valley Project and
18 State Water Project operations, in writing, and shall docu-
19 ment the significant facts upon which such decisions are
20 made, consistent with section 706 of title 5, United States
21 Code.

22 (b) INCREASED MONITORING TO INFORM REAL-
23 TIME OPERATIONS.—The Secretary shall conduct addi-
24 tional surveys, on an annual basis at the appropriate time

1 of the year based on environmental conditions, in collabo-
2 ration with other Delta science interests.

3 (1) In implementing this section, the Secretary
4 shall—

5 (A) use the most accurate survey methods
6 available for the detection of Delta smelt to de-
7 termine the extent that adult Delta smelt are
8 distributed in relation to certain levels of tur-
9 bidity, or other environmental factors that may
10 influence salvage rate; and

11 (B) use results from appropriate survey
12 methods for the detection of Delta smelt to de-
13 termine how the Central Valley Project and
14 State Water Project may be operated more effi-
15 ciently to minimize salvage while maximizing
16 export pumping rates without causing a signifi-
17 cant negative impact on the long-term survival
18 of the Delta smelt.

19 (2) During the period beginning on December
20 1, 2015, and ending March 31, 2016, and in each
21 successive December through March period, if sus-
22 pended sediment loads enter the Delta from the Sac-
23 ramento River and the suspended sediment loads ap-
24 pear likely to raise turbidity levels in the Old River
25 north of the export pumps from values below 12

1 Nephelometric Turbidity Units (NTU) to values
2 above 12 NTU, the Secretary shall—

3 (A) conduct daily monitoring using appro-
4 priate survey methods at locations including,
5 but not limited to, the vicinity of Station 902
6 to determine the extent that adult Delta smelt
7 are moving with turbidity toward the export
8 pumps; and

9 (B) use results from the monitoring sur-
10 veys referenced in paragraph (A) to determine
11 how increased trawling can inform daily real-
12 time Central Valley Project and State Water
13 Project operations to minimize salvage while
14 maximizing export pumping rates without caus-
15 ing a significant negative impact on the long-
16 term survival of the Delta smelt.

17 (c) PERIODIC REVIEW OF MONITORING.—Within 12
18 months of the date of enactment of this title, and at least
19 once every 5 years thereafter, the Secretary shall—

20 (1) evaluate whether the monitoring program
21 under subsection (b), combined with other moni-
22 toring programs for the Delta, is providing sufficient
23 data to inform Central Valley Project and State
24 Water Project operations to minimize salvage while
25 maximizing export pumping rates without causing a

1 significant negative impact on the long-term survival
2 of the Delta smelt; and

3 (2) determine whether the monitoring efforts
4 should be changed in the short or long term to pro-
5 vide more useful data.

6 (d) DELTA SMELT DISTRIBUTION STUDY.—

7 (1) IN GENERAL.—No later than January 1,
8 2016, and at least every five years thereafter, the
9 Secretary, in collaboration with the California De-
10 partment of Fish and Wildlife, the California De-
11 partment of Water Resources, public water agencies,
12 and other interested entities, shall implement new
13 targeted sampling and monitoring specifically de-
14 signed to understand Delta smelt abundance, dis-
15 tribution, and the types of habitat occupied by Delta
16 smelt during all life stages.

17 (2) SAMPLING.—The Delta smelt distribution
18 study shall, at a minimum—

19 (A) include recording water quality and
20 tidal data;

21 (B) be designed to understand Delta smelt
22 abundance, distribution, habitat use, and move-
23 ment throughout the Delta, Suisun Marsh, and
24 other areas occupied by the Delta smelt during
25 all seasons;

1 (C) consider areas not routinely sampled
2 by existing monitoring programs, including wet-
3 land channels, near-shore water, depths below
4 35 feet, and shallow water; and

5 (D) use survey methods, including sam-
6 pling gear, best suited to collect the most accu-
7 rate data for the type of sampling or moni-
8 toring.

9 (e) SCIENTIFICALLY SUPPORTED IMPLEMENTATION
10 OF OMR FLOW REQUIREMENTS.—In implementing the
11 provisions of the smelt biological opinion, or any successor
12 biological opinion or court order, pertaining to manage-
13 ment of reverse flow in the Old and Middle Rivers, the
14 Secretary shall—

15 (1) consider the relevant provisions of the bio-
16 logical opinion or any successor biological opinion;

17 (2) to maximize Central Valley project and
18 State Water Project water supplies, manage export
19 pumping rates to achieve a reverse OMR flow rate
20 of $-5,000$ cubic feet per second unless information
21 developed by the Secretary under paragraphs (3)
22 and (4) leads the Secretary to reasonably conclude
23 that a less negative OMR flow rate is necessary to
24 avoid a negative impact on the long-term survival of
25 the Delta smelt. If information available to the Sec-

1 retary indicates that a reverse OMR flow rate more
2 negative than $-5,000$ cubic feet per second can be
3 established without an imminent negative impact on
4 the long-term survival of the Delta smelt, the Sec-
5 retary shall manage export pumping rates to achieve
6 that more negative OMR flow rate;

7 (3) document in writing any significant facts
8 about real-time conditions relevant to the determina-
9 tions of OMR reverse flow rates, including—

10 (A) whether targeted real-time fish moni-
11 toring in the Old River pursuant to this section,
12 including monitoring in the vicinity of Station
13 902, indicates that a significant negative impact
14 on the long-term survival of the Delta smelt is
15 imminent; and

16 (B) whether near-term forecasts with avail-
17 able salvage models show under prevailing con-
18 ditions that OMR flow of $-5,000$ cubic feet per
19 second or higher will cause a significant nega-
20 tive impact on the long-term survival of the
21 Delta smelt;

22 (4) show in writing that any determination to
23 manage OMR reverse flow at rates less negative
24 than $-5,000$ cubic feet per second is necessary to
25 avoid a significant negative impact on the long-term

1 survival of the Delta smelt, including an explanation
2 of the data examined and the connection between
3 those data and the choice made, after considering—

4 (A) the distribution of Delta smelt
5 throughout the Delta;

6 (B) the potential effects of documented,
7 quantified entrainment on subsequent Delta
8 smelt abundance;

9 (C) the water temperature;

10 (D) other significant factors relevant to
11 the determination; and

12 (E) whether any alternative measures
13 could have a substantially lesser water supply
14 impact; and

15 (5) for any subsequent biological opinion, make
16 the showing required in paragraph (4) for any deter-
17 mination to manage OMR reverse flow at rates less
18 negative than the most negative limit in the biologi-
19 cal opinion if the most negative limit in the biologi-
20 cal opinion is more negative than $-5,000$ cubic feet
21 per second.

22 (f) MEMORANDUM OF UNDERSTANDING.—No later
23 than December 1, 2015, the Commissioner and the Direc-
24 tor will execute a Memorandum of Understanding (MOU)
25 to ensure that the smelt biological opinion is implemented

1 in a manner that maximizes water supply while complying
2 with applicable laws and regulations. If that MOU alters
3 any procedures set out in the biological opinion, there will
4 be no need to reinitiate consultation if those changes will
5 not have a significant negative impact on the long-term
6 survival on listed species and the implementation of the
7 MOU would not be a major change to implementation of
8 the biological opinion. Any change to procedures that does
9 not create a significant negative impact on the long-term
10 survival to listed species will not alter application of the
11 take permitted by the incidental take statement in the bio-
12 logical opinion under section 7(o)(2) of the Endangered
13 Species Act of 1973.

14 (g) CALCULATION OF REVERSE FLOW IN OMR.—
15 Within 90 days of the enactment of this title, the Sec-
16 retary is directed, in consultation with the California De-
17 partment of Water Resources to revise the method used
18 to calculate reverse flow in Old and Middle Rivers for im-
19 plementation of the reasonable and prudent alternatives
20 in the smelt biological opinion and the salmonid biological
21 opinion, and any succeeding biological opinions, for the
22 purpose of increasing Central Valley Project and State
23 Water Project water supplies. The method of calculating
24 reverse flow in Old and Middle Rivers shall be reevaluated
25 not less than every five years thereafter to achieve max-

1 imum export pumping rates within limits established by
2 the smelt biological opinion, the salmonid biological opin-
3 ion, and any succeeding biological opinions.

4 **TITLE II—ENSURING SALMONID**
5 **MANAGEMENT IS RESPON-**
6 **SIVE TO NEW SCIENCE**

7 **SEC. 201. DEFINITIONS.**

8 In this title:

9 (1) ASSISTANT ADMINISTRATOR.—The term
10 “Assistant Administrator” means the Assistant Ad-
11 ministrator of the National Oceanic and Atmos-
12 pheric Administration for Fisheries.

13 (2) SECRETARY.—The term “Secretary” means
14 the Secretary of Commerce.

15 (3) OTHER AFFECTED INTERESTS.—The term
16 “other affected interests” means the State of Cali-
17 fornia, Indian tribes, subdivisions of the State of
18 California, public water agencies and those who ben-
19 efit directly and indirectly from the operations of the
20 Central Valley Project and the State Water Project.

21 (4) COMMISSIONER.—The term “Commis-
22 sioner” means the Commissioner of the Bureau of
23 Reclamation.

1 (5) DIRECTOR.—The term “Director” means
2 the Director of the United States Fish and Wildlife
3 Service.

4 **SEC. 202. PROCESS FOR ENSURING SALMONID MANAGE-**
5 **MENT IS RESPONSIVE TO NEW SCIENCE.**

6 (a) GENERAL DIRECTIVE.—The reasonable and pru-
7 dent alternative described in the salmonid biological opin-
8 ion allows for and anticipates adjustments in Central Val-
9 ley Project and State Water Project operation parameters
10 to reflect the best scientific and commercial data currently
11 available, and authorizes efforts to test and evaluate im-
12 provements in operations that will meet applicable regu-
13 latory requirements and maximize Central Valley Project
14 and State Water Project water supplies and reliability.
15 Implementation of the reasonable and prudent alternative
16 described in the salmonid biological opinion shall be ad-
17 justed accordingly as new scientific and commercial data
18 are developed. The Commissioner and the Assistant Ad-
19 ministrators shall fully utilize these authorities as described
20 below.

21 (b) ANNUAL REVIEWS OF CERTAIN CENTRAL VAL-
22 LEY PROJECT AND STATE WATER PROJECT OPER-
23 ATIONS.—No later than December 31, 2016, and at least
24 annually thereafter:

1 (1) The Commissioner, with the assistance of
2 the Assistant Administrator, shall examine and iden-
3 tify adjustments to the initiation of Action IV.2.3 as
4 set forth in the Biological Opinion and Conference
5 Opinion on the Long-Term Operations of the Cen-
6 tral Valley Project and State Water Project, Endan-
7 gered Species Act Section 7 Consultation, issued by
8 the National Marine Fisheries Service on June 4,
9 2009, pertaining to negative OMR flows, subject to
10 paragraph (5).

11 (2) The Commissioner, with the assistance of
12 the Assistant Administrator, shall examine and iden-
13 tify adjustments in the timing, triggers or other
14 operational details relating to the implementation of
15 pumping restrictions in Action IV.2.1 pertaining to
16 the inflow to export ratio, subject to paragraph (5).

17 (3) Pursuant to the consultation and assess-
18 ments carried out under paragraphs (1) and (2) of
19 this subsection, the Commissioner and the Assistant
20 Administrator shall jointly make recommendations
21 to the Secretary of the Interior and to the Secretary
22 on adjustments to project operations that, in the ex-
23 ercise of the adaptive management provisions of the
24 salmonid biological opinion, will reduce water supply
25 impacts of the salmonid biological opinion on the

1 Central Valley Project and the California State
2 Water Project and are consistent with the require-
3 ments of applicable law and as further described in
4 subsection (c).

5 (4) The Secretary and the Secretary of the In-
6 terior shall direct the Commissioner and Assistant
7 Administrator to implement recommended adjust-
8 ments to Central Valley Project and State Water
9 Project operations for which the conditions under
10 subsection (c) are met.

11 (5) The Assistant Administrator and the Com-
12 missioner shall review and identify adjustments to
13 Central Valley Project and State Water Project op-
14 erations with water supply restrictions in any suc-
15 cessor biological opinion to the salmonid biological
16 opinion, applying the provisions of this section to
17 those water supply restrictions where there are ref-
18 erences to Actions IV.2.1 and IV.2.3.

19 (c) IMPLEMENTATION OF OPERATIONAL ADJUST-
20 MENTS.—After reviewing the recommendations under sub-
21 section (b), the Secretary of the Interior and the Secretary
22 shall direct the Commissioner and the Assistant Adminis-
23 trator to implement those operational adjustments, or any
24 combination, for which, in aggregate—

1 (1) the net effect on listed species is equivalent
2 to those of the underlying project operational param-
3 eters in the salmonid biological opinion, taking into
4 account both—

5 (A) efforts to minimize the adverse effects
6 of the adjustment to project operations; and

7 (B) whatever additional actions or meas-
8 ures may be implemented in conjunction with
9 the adjustments to operations to offset the ad-
10 verse effects to listed species, consistent with
11 (d), that are in excess of the adverse effects of
12 the underlying operational parameters, if any;
13 and

14 (2) the effects of the adjustment can be reason-
15 ably expected to fall within the incidental take au-
16 thorizations.

17 (d) EVALUATION OF OFFSETTING MEASURES.—
18 When examining and identifying opportunities to offset
19 the potential adverse effect of adjustments to operations
20 under subsection (c)(1)(B), the Commissioner and the As-
21 sistant Administrator shall take into account the potential
22 species survival improvements that are likely to result
23 from other measures which, if implemented in conjunction
24 with such adjustments, would offset adverse effects, if any,
25 of the adjustments. When evaluating offsetting measures,

1 the Commissioner and the Assistant Administrator shall
2 consider the type, timing and nature of the adverse effects,
3 if any, to specific species and ensure that the measures
4 likely provide equivalent overall benefits to the listed spe-
5 cies in the aggregate, as long as the change will not cause
6 a significant negative impact on the long-term survival of
7 a listed salmonid species.

8 (e) FRAMEWORK FOR EXAMINING OPPORTUNITIES
9 TO MINIMIZE OR OFFSET THE POTENTIAL ADVERSE EF-
10 FECT OF ADJUSTMENTS TO OPERATIONS.—Not later than
11 December 31, 2015, and every five years thereafter, the
12 Assistant Administrator shall, in collaboration with the
13 Director of the California Department of Fish and Wild-
14 life, based on the best scientific and commercial data avail-
15 able and for each listed salmonid species, issue estimates
16 of the increase in through-Delta survival the Secretary ex-
17 pects to be achieved—

18 (1) through restrictions on export pumping
19 rates as specified by Action IV.2.3 as compared to
20 limiting OMR flow to a fixed rate of $-5,000$ cubic
21 feet per second within the time period Action IV.2.3
22 is applicable, based on a given rate of San Joaquin
23 River inflow to the Delta and holding other relevant
24 factors constant;

1 (2) through San Joaquin River inflow to export
2 restrictions on export pumping rates specified within
3 Action IV.2.1 as compared to the restrictions in the
4 April/May period imposed by the State Water Re-
5 sources Control Board decision D-1641, based on a
6 given rate of San Joaquin River inflow to the Delta
7 and holding other relevant factors constant;

8 (3) through physical habitat restoration im-
9 provements;

10 (4) through predation control programs;

11 (5) through the installation of temporary bar-
12 riers, the management of Cross Channel Gates oper-
13 ations, and other projects affecting flow in the
14 Delta;

15 (6) through salvaging fish that have been en-
16 trained near the entrance to Clifton Court Forebay;

17 (7) through any other management measures
18 that may provide equivalent or better protections for
19 listed species while maximizing export pumping rates
20 without causing a significant negative impact on the
21 long-term survival of a listed salmonid species; and

22 (8) through development and implementation of
23 conservation hatchery programs for salmon and
24 steelhead to aid in the recovery of listed salmon and
25 steelhead species.

1 (f) SURVIVAL ESTIMATES.—

2 (1) To the maximum extent practicable, the As-
3 sistant Administrator shall make quantitative esti-
4 mates of survival such as a range of percentage in-
5 creases in through-Delta survival that could result
6 from the management measures, and if the scientific
7 information is lacking for quantitative estimates,
8 shall do so on qualitative terms based upon the best
9 available science.

10 (2) If the Assistant Administrator provides
11 qualitative survival estimates for a species resulting
12 from one or more management measures, the Sec-
13 retary shall, to the maximum extent feasible, rank
14 the management measures described in subsection
15 (e) in terms of their most likely expected contribu-
16 tion to increased through-Delta survival relative to
17 the other measures.

18 (3) If at the time the Assistant Administrator
19 conducts the reviews under subsection (b), the Sec-
20 retary has not issued an estimate of increased
21 through-Delta survival from different management
22 measures pursuant to subsection (e), the Secretary
23 shall compare the protections to the species from
24 different management measures based on the best
25 scientific and commercial data available at the time.

1 (g) COMPARISON OF ADVERSE CONSEQUENCES FOR
2 ALTERNATIVE MANAGEMENT MEASURES OF EQUIVALENT
3 PROTECTION FOR A SPECIES.—

4 (1) For the purposes of this subsection and
5 subsection (c)—

6 (A) the alternative management measure
7 or combination of alternative management
8 measures identified in paragraph (2) shall be
9 known as the “equivalent alternative measure”;

10 (B) the existing measure or measures iden-
11 tified in subparagraphs (2) (A), (B), (C), or
12 (D) shall be known as the “equivalent existing
13 measure”; and

14 (C) an “equivalent increase in through-
15 Delta survival rates for listed salmonid species”
16 shall mean an increase in through-Delta sur-
17 vival rates that is equivalent when considering
18 the change in through-Delta survival rates for
19 the listed salmonid species in the aggregate,
20 and not the same change for each individual
21 species, as long as the change in survival rates
22 will not cause a significant negative impact on
23 the long-term survival of a listed salmonid spe-
24 cies.

1 (2) As part of the reviews of project operations
2 pursuant to subsection (b), the Assistant Adminis-
3 trator shall determine whether any alternative man-
4 agement measures or combination of alternative
5 management measures listed in subsection (e) (3)
6 through (8) would provide an increase in through-
7 Delta survival rates for listed salmonid species that
8 is equivalent to the increase in through-Delta sur-
9 vival rates for listed salmonid species from the fol-
10 lowing:

11 (A) Through restrictions on export pump-
12 ing rates as specified by Action IV.2.3, as com-
13 pared to limiting OMR flow to a fixed rate of
14 —5,000 cubic feet per second within the time
15 period Action IV.2.3 is applicable.

16 (B) Through restrictions on export pump-
17 ing rates as specified by Action IV.2.3, as com-
18 pared to a modification of Action IV.2.3 that
19 would provide additional water supplies, other
20 than that described in subparagraph (A).

21 (C) Through San Joaquin River inflow to
22 export restrictions on export pumping rates
23 specified within Action IV.2.1, as compared to
24 the restrictions in the April/May period imposed

1 by the State Water Resources Control Board
2 decision D–1641.

3 (D) Through San Joaquin River inflow to
4 export restrictions on export pumping rates
5 specified within Action IV.2.1, as compared to
6 a modification of Action IV.2.1 that would re-
7 duce water supply impacts of the salmonid bio-
8 logical opinion on the Central Valley Project
9 and the California State Water Project, other
10 than that described in subparagraph (C).

11 (3) If the Assistant Administrator identifies an
12 equivalent alternative measure pursuant to para-
13 graph (2), the Assistant Administrator shall deter-
14 mine whether—

15 (A) it is technically feasible and within
16 Federal jurisdiction to implement the equivalent
17 alternative measure;

18 (B) the State of California, or subdivision
19 thereof, or local agency with jurisdiction has
20 certified in writing within 10 calendar days to
21 the Assistant Administrator that it has the au-
22 thority and capability to implement the perti-
23 nent equivalent alternative measure; or

24 (C) the adverse consequences of doing so
25 are less than the adverse consequences of the

1 equivalent existing measure, including a concise
2 evaluation of the adverse consequences to other
3 affected interests.

4 (4) If the Assistant Administrator makes the
5 determinations in subparagraph (3)(A) or (3)(B),
6 the Commissioner shall adjust project operations to
7 implement the equivalent alternative measure in
8 place of the equivalent existing measure in order to
9 increase export rates of pumping to the greatest ex-
10 tent possible while maintaining a net combined effect
11 of equivalent through-Delta survival rates for the
12 listed salmonid species.

13 (h) TRACKING ADVERSE EFFECTS BEYOND THE
14 RANGE OF EFFECTS ACCOUNTED FOR IN THE SALMONID
15 BIOLOGICAL OPINION AND COORDINATED OPERATION
16 WITH THE DELTA SMELT BIOLOGICAL OPINION.—

17 (1) Among the adjustments to the project oper-
18 ations considered through the adaptive management
19 process under this section, the Assistant Adminis-
20 trator and the Commissioner shall—

21 (A) evaluate the effects on listed salmonid
22 species and water supply of the potential ad-
23 justment to operational criteria described in
24 subparagraph (B); and

1 (B) consider requiring that before some or
2 all of the provisions of Actions IV.2.1. or IV.2.3
3 are imposed in any specific instance, the Assist-
4 ant Administrator show that the implementa-
5 tion of these provisions in that specific instance
6 is necessary to avoid a significant negative im-
7 pact on the long-term survival of a listed
8 salmonid species.

9 (2) The Assistant Administrator, the Director,
10 and the Commissioner, in coordination with State of-
11 ficials as appropriate, shall establish operational cri-
12 teria to coordinate management of OMR flows under
13 the smelt and salmonid biological opinions, in order
14 to take advantage of opportunities to provide addi-
15 tional water supplies from the coordinated imple-
16 mentation of the biological opinions.

17 (3) The Assistant Administrator and the Com-
18 missioner shall document the effects of any adaptive
19 management decisions related to the coordinated op-
20 eration of the smelt and salmonid biological opinions
21 that prioritizes the maintenance of one species at the
22 expense of the other.

23 (i) REAL-TIME MONITORING AND MANAGEMENT.—
24 Notwithstanding the calendar based triggers described in
25 the salmonid biological opinion Reasonable and Prudent

1 Alternative (RPA), the Assistant Administrator and the
2 Commissioner shall not limit OMR reverse flow to $-5,000$
3 cubic feet per second unless current monitoring data indi-
4 cate that this OMR flow limitation is reasonably required
5 to avoid a significant negative impact on the long-term
6 survival of a listed salmonid species.

7 (j) EVALUATION AND IMPLEMENTATION OF MANAGE-
8 MENT MEASURES.—If the quantitative estimates of
9 through-Delta survival established by the Secretary for the
10 adjustments in subsection (b)(2) exceed the through-Delta
11 survival established for the RPAs, the Secretary shall
12 evaluate and implement the management measures in sub-
13 section (b)(2) as a prerequisite to implementing the RPAs
14 contained in the Salmonid Biological Opinion.

15 (k) ACCORDANCE WITH OTHER LAW.—Consistent
16 with section 706 of title 5, United States Code, decisions
17 of the Assistant Administrator and the Commissioner de-
18 scribed in subsections (b) through (j) shall be made in
19 writing, on the basis of best scientific and commercial data
20 currently available, and shall include an explanation of the
21 data examined at the connection between those data and
22 the decisions made.

1 **SEC. 203. NON-FEDERAL PROGRAM TO PROTECT NATIVE**
2 **ANADROMOUS FISH IN THE STANISLAUS**
3 **RIVER.**

4 (a) ESTABLISHMENT OF NONNATIVE PREDATOR
5 FISH REMOVAL PROGRAM.—The Secretary and the dis-
6 tricts, in consultation with the Director, shall jointly de-
7 velop and conduct a nonnative predator fish removal pro-
8 gram to remove nonnative striped bass, smallmouth bass,
9 largemouth bass, black bass, and other nonnative predator
10 fish species from the Stanislaus River. The program
11 shall—

12 (1) be scientifically based;

13 (2) include methods to quantify the number and
14 size of predator fish removed each year, the impact
15 of such removal on the overall abundance of pred-
16 ator fish, and the impact of such removal on the
17 populations of juvenile anadromous fish found in the
18 Stanislaus River by, among other things, evaluating
19 the number of juvenile anadromous fish that migrate
20 past the rotary screw trap located at Caswell;

21 (3) among other methods, use wire fyke trap-
22 ping, portable resistance board weirs, and boat
23 electrofishing; and

24 (4) be implemented as quickly as possible fol-
25 lowing the issuance of all necessary scientific re-
26 search.

1 (b) MANAGEMENT.—The management of the pro-
2 gram shall be the joint responsibility of the Secretary and
3 the districts. Such parties shall work collaboratively to en-
4 sure the performance of the program, and shall discuss
5 and agree upon, among other things, changes in the struc-
6 ture, management, personnel, techniques, strategy, data
7 collection, reporting, and conduct of the program.

8 (c) CONDUCT.—

9 (1) IN GENERAL.—By agreement between the
10 Secretary and the districts, the program may be con-
11 ducted by their own personnel, qualified private con-
12 tractors hired by the districts, personnel of, on loan
13 to, or otherwise assigned to the National Marine
14 Fisheries Service, or a combination thereof.

15 (2) PARTICIPATION BY THE NATIONAL MARINE
16 FISHERIES SERVICE.—If the districts elect to con-
17 duct the program using their own personnel or quali-
18 fied private contractors hired by them in accordance
19 with paragraph (1), the Secretary may assign an
20 employee of, on loan to, or otherwise assigned to the
21 National Marine Fisheries Service, to be present for
22 all activities performed in the field. Such presence
23 shall ensure compliance with the agreed-upon ele-
24 ments specified in subsection (b). The districts shall

1 pay the cost of such participation in accordance with
2 subsection (d).

3 (3) TIMING OF ELECTION.—The districts shall
4 notify the Secretary of their election on or before
5 October 15 of each calendar year of the program.
6 Such an election shall apply to the work performed
7 in the subsequent calendar year.

8 (d) FUNDING.—

9 (1) IN GENERAL.—The districts shall be re-
10 sponsible for 100 percent of the cost of the program.

11 (2) CONTRIBUTED FUNDS.—The Secretary may
12 accept and use contributions of funds from the dis-
13 tricts to carry out activities under the program.

14 (3) ESTIMATION OF COST.—On or before De-
15 cember 1 of each year of the program, the Secretary
16 shall submit to the districts an estimate of the cost
17 to be incurred by the National Marine Fisheries
18 Service for the program in the following calendar
19 year, if any, including the cost of any data collection
20 and posting under subsection (e). If an amount
21 equal to the estimate is not provided through con-
22 tributions pursuant to paragraph (2) before Decem-
23 ber 31 of that year—

24 (A) the Secretary shall have no obligation
25 to conduct the program activities otherwise

1 scheduled for such following calendar year until
2 such amount is contributed by the districts; and

3 (B) the districts may not conduct any as-
4 pect of the program until such amount is con-
5 tributed by the districts.

6 (4) ACCOUNTING.—On or before September 1
7 of each year, the Secretary shall provide to the dis-
8 tricts an accounting of the costs incurred by the Sec-
9 retary for the program in the preceding calendar
10 year. If the amount contributed by the districts pur-
11 suant to paragraph (2) for that year was greater
12 than the costs incurred by the Secretary, the Sec-
13 retary shall—

14 (A) apply the excess contributions to costs
15 of activities to be performed by the Secretary
16 under the program, if any, in the next calendar
17 year; or

18 (B) if no such activities are to be per-
19 formed, repay the excess contribution to the
20 districts.

21 (e) POSTING AND EVALUATION.—On or before the
22 15th day of each month, the Secretary shall post on the
23 Internet website of the National Marine Fisheries Service
24 a tabular summary of the raw data collected under the
25 program in the preceding month.

1 (f) IMPLEMENTATION.—The program is hereby found
2 to be consistent with the requirements of the Central Val-
3 ley Project Improvement Act (Public Law 102–575). No
4 provision, plan or definition established or required by the
5 Central Valley Project Improvement Act (Public Law
6 102–575) shall be used to prohibit the imposition of the
7 program, or to prevent the accomplishment of its goals.

8 (g) TREATMENT OF STRIPED BASS.—For purposes
9 of the application of the Central Valley Project Improve-
10 ment Act (title XXXIV of Public Law 102–575) with re-
11 spect to the program, striped bass shall not be treated as
12 anadromous fish.

13 (h) DEFINITION.—For the purposes of this section,
14 the term “districts” means the Oakdale Irrigation District
15 and the South San Joaquin Irrigation District, California.

16 **SEC. 204. PILOT PROJECTS TO IMPLEMENT CALFED**
17 **INVASIVE SPECIES PROGRAM.**

18 (a) IN GENERAL.—Not later than January 1, 2017,
19 the Secretary of the Interior, in collaboration with the Sec-
20 retary of Commerce, the Director of the California De-
21 partment of Fish and Wildlife, and other relevant agencies
22 and interested parties, shall begin pilot projects to imple-
23 ment the invasive species control program authorized pur-
24 suant to section 103(d)(6)(A)(iv) of Public Law 108–361
25 (118 Stat. 1690).

1 (b) REQUIREMENTS.—The pilot projects shall—

2 (1) seek to reduce invasive aquatic vegetation,
3 predators, and other competitors which contribute to
4 the decline of native listed pelagic and anadromous
5 species that occupy the Sacramento and San Joa-
6 quin Rivers and their tributaries and the Sac-
7 ramento-San Joaquin Bay-Delta; and

8 (2) remove, reduce, or control the effects of spe-
9 cies, including Asiatic clams, silversides, gobies, Bra-
10 zilian water weed, water hyacinth, largemouth bass,
11 smallmouth bass, striped bass, crappie, bluegill,
12 white and channel catfish, and brown bullheads.

13 (c) SUNSET.—The authorities provided under this
14 subsection shall expire seven years after the Secretaries
15 commence implementation of the pilot projects pursuant
16 to subsection (a).

17 (d) EMERGENCY ENVIRONMENTAL REVIEWS.—To
18 expedite the environmentally beneficial programs for the
19 conservation of threatened and endangered species, the
20 Secretaries shall consult with the Council on Environ-
21 mental Quality in accordance with section 1506.11 of title
22 40, Code of Federal Regulations (or successor regula-
23 tions), to develop alternative arrangements to comply with
24 the National Environmental Policy Act of 1969 (42 U.S.C.
25 4321 et seq.) for the projects pursuant to subsection (a).

1 **TITLE III—OPERATIONAL FLEXI-**
2 **BILITY AND DROUGHT RE-**
3 **LIEF**

4 **SEC. 301. DEFINITIONS.**

5 In this title:

6 (1) CENTRAL VALLEY PROJECT.—The term
7 “Central Valley Project” has the meaning given the
8 term in section 3403 of the Central Valley Project
9 Improvement Act (Public Law 102–575; 106 Stat.
10 4707).

11 (2) RECLAMATION PROJECT.—The term “Rec-
12 lamation Project” means a project constructed pur-
13 suant to the authorities of the reclamation laws and
14 whose facilities are wholly or partially located in the
15 State.

16 (3) SECRETARIES.—The term “Secretaries”
17 means—

18 (A) the Secretary of Agriculture;

19 (B) the Secretary of Commerce; and

20 (C) the Secretary of the Interior.

21 (4) STATE WATER PROJECT.—The term “State
22 Water Project” means the water project described
23 by California Water Code section 11550 et seq. and
24 operated by the California Department of Water Re-
25 sources.

1 (5) STATE.—The term “State” means the State
2 of California.

3 **SEC. 302. OPERATIONAL FLEXIBILITY IN TIMES OF**
4 **DROUGHT.**

5 (a) WATER SUPPLIES.—For the period of time such
6 that in any year that the Sacramento Valley Index is 6.5
7 or lower, or at the request of the State of California, and
8 until two succeeding years following either of those events
9 have been completed where the final Sacramento Valley
10 Index is 7.8 or greater, the Secretaries shall provide the
11 maximum quantity of water supplies practicable to all in-
12 dividuals or district who receive Central Valley Project
13 water under water service or repayments contracts, water
14 rights settlement contracts, exchange contracts, or refuge
15 contracts or agreements entered into prior to or after the
16 date of enactment of this title; State Water Project con-
17 tractors, and any other tribe, locality, water agency, or
18 municipality in the State, by approving, consistent with
19 applicable laws (including regulations), projects and oper-
20 ations to provide additional water supplies as quickly as
21 practicable based on available information to address the
22 emergency conditions.

23 (b) ADMINISTRATION.—In carrying out subsection
24 (a), the Secretaries shall, consistent with applicable laws
25 (including regulations)—

1 (1) issue all necessary permit decisions under
2 the authority of the Secretaries not later than 30
3 days after the date on which the Secretaries receive
4 a completed application from the State to place and
5 use temporary barriers or operable gates in Delta
6 channels to improve water quantity and quality for
7 the State Water Project and the Central Valley
8 Project south of Delta water contractors and other
9 water users, on the condition that the barriers or op-
10 erable gates—

11 (A) do not result in a significant negative
12 impact on the long-term survival of listed spe-
13 cies within the Delta and provide benefits or
14 have a neutral impact on in-Delta water user
15 water quality; and

16 (B) are designed so that formal consulta-
17 tions under section 7 of the Endangered Spe-
18 cies Act of 1973 (16 U.S.C. 1536) are not nec-
19 essary;

20 (2) require the Director of the United States
21 Fish and Wildlife Service and the Commissioner of
22 Reclamation—

23 (A) to complete, not later than 30 days
24 after the date on which the Director or the
25 Commissioner receives a complete written re-

1 quest for water transfer, all requirements under
2 the National Environmental Policy Act of 1969
3 (42 U.S.C. 4321 et seq.) and the Endangered
4 Species Act of 1973 (16 U.S.C. 1531 et seq.)
5 necessary to make final permit decisions on the
6 request; and

7 (B) to approve any water transfer request
8 described in subparagraph (A) to maximize the
9 quantity of water supplies available for non-
10 habitat uses, on the condition that actions asso-
11 ciated with the water transfer comply with ap-
12 plicable Federal laws (including regulations);

13 (3) adopt a 1:1 inflow to export ratio, as meas-
14 ured as a 3-day running average at Vernalis during
15 the period beginning on April 1, and ending on May
16 31, absent a determination in writing that a more
17 restrictive inflow to export ratio is required to avoid
18 a significant negative impact on the long-term sur-
19 vival of a listed salmonid species under the Endan-
20 gered Species Act of 1973 (16 U.S.C. 1531 et seq.);
21 provided that the 1:1 inflow to export ratio shall
22 apply for the increment of increased flow of the San
23 Joaquin River resulting from the voluntary sale,
24 transfers, or exchanges of water from agencies with
25 rights to divert water from the San Joaquin River

1 or its tributaries and provided that the movement of
2 the acquired, transferred, or exchanged water
3 through the Delta consistent with the Central Valley
4 Project's and the State Water Project's permitted
5 water rights and provided that movement of the
6 Central Valley Project water is consistent with the
7 requirements of section 3405(a)(1)(H) of the Cen-
8 tral Valley Project Improvement Act; and

9 (4) allow and facilitate, consistent with existing
10 priorities, water transfers through the C.W. "Bill"
11 Jones Pumping Plant or the Harvey O. Banks
12 Pumping Plant from April 1 to November 30 pro-
13 vided water transfers comply with State law, includ-
14 ing the California Environmental Quality Act.

15 (c) ACCELERATED PROJECT DECISION AND ELE-
16 VATION.—

17 (1) IN GENERAL.—On request by the Governor
18 of the State, the Secretaries shall use the expedited
19 procedures under this subsection to make final deci-
20 sions relating to a Federal project or operation, or
21 to local or State projects or operations that require
22 decisions by the Secretary of the Interior or the Sec-
23 retary of Commerce to provide additional water sup-
24 plies if the project's or operation's purpose is to pro-

1 vide relief for emergency drought conditions pursu-
2 ant to subsections (a) and (b).

3 (2) REQUEST FOR RESOLUTION.—

4 (A) IN GENERAL.—On request by the Gov-
5 ernor of the State, the Secretaries referenced in
6 paragraph (1), or the head of another Federal
7 agency responsible for carrying out a review of
8 a project, as applicable, the Secretary of the In-
9 terior shall convene a final project decision
10 meeting with the heads of all relevant Federal
11 agencies to decide whether to approve a project
12 to provide relief for emergency drought condi-
13 tions.

14 (B) MEETING.—The Secretary of the Inte-
15 rior shall convene a meeting requested under
16 subparagraph (A) not later than 7 days after
17 the date on which the meeting request is re-
18 ceived.

19 (3) NOTIFICATION.—On receipt of a request for
20 a meeting under paragraph (2), the Secretary of the
21 Interior shall notify the heads of all relevant Federal
22 agencies of the request, including information on the
23 project to be reviewed and the date of the meeting.

24 (4) DECISION.—Not later than 10 days after
25 the date on which a meeting is requested under

1 paragraph (2), the head of the relevant Federal
2 agency shall issue a final decision on the project,
3 subject to subsection (e)(2).

4 (5) MEETING CONVENED BY SECRETARY.—The
5 Secretary of the Interior may convene a final project
6 decision meeting under this subsection at any time,
7 at the discretion of the Secretary, regardless of
8 whether a meeting is requested under paragraph (2).

9 (d) APPLICATION.—To the extent that a Federal
10 agency, other than the agencies headed by the Secretaries,
11 has a role in approving projects described in subsections
12 (a) and (b), this section shall apply to those Federal agen-
13 cies.

14 (e) LIMITATION.—Nothing in this section authorizes
15 the Secretaries to approve projects—

16 (1) that would otherwise require congressional
17 authorization; or

18 (2) without following procedures required by
19 applicable law.

20 (f) DROUGHT PLAN.—For the period of time such
21 that in any year that the Sacramento Valley index is 6.5
22 or lower, or at the request of the State of California, and
23 until two succeeding years following either of those events
24 have been completed where the final Sacramento Valley
25 Index is 7.8 or greater, the Secretaries of Commerce and

1 the Interior, in consultation with appropriate State offi-
2 cials, shall develop a drought operations plan that is con-
3 sistent with the provisions of this Act including the provi-
4 sions that are intended to provide additional water sup-
5 plies that could be of assistance during the current
6 drought.

7 **SEC. 303. OPERATION OF CROSS-CHANNEL GATES.**

8 (a) IN GENERAL.—The Secretary of Commerce and
9 the Secretary of the Interior shall jointly—

10 (1) authorize and implement activities to ensure
11 that the Delta Cross Channel Gates remain open to
12 the maximum extent practicable using findings from
13 the United States Geological Survey on diurnal be-
14 havior of juvenile salmonids, timed to maximize the
15 peak flood tide period and provide water supply and
16 water quality benefits for the duration of the
17 drought emergency declaration of the State, and for
18 the period of time such that in any year that the
19 Sacramento Valley index is 6.5 or lower, or at the
20 request of the State of California, and until two suc-
21 ceeding years following either of those events have
22 been completed where the final Sacramento Valley
23 Index is 7.8 or greater, consistent with operational
24 criteria and monitoring criteria set forth into the
25 Order Approving a Temporary Urgency Change in

1 License and Permit Terms in Response to Drought
2 Conditions of the California State Water Resources
3 Control Board, effective January 31, 2014 (or a suc-
4 cessor order) and other authorizations associated
5 with it;

6 (2) with respect to the operation of the Delta
7 Cross Channel Gates described in paragraph (1),
8 collect data on the impact of that operation on—

9 (A) species listed as threatened or endan-
10 gered under the Endangered Species Act of
11 1973 (16 U.S.C. 1531 et seq.);

12 (B) water quality; and

13 (C) water supply;

14 (3) collaborate with the California Department
15 of Water Resources to install a deflection barrier at
16 Georgiana Slough in coordination with Delta Cross
17 Channel Gate diurnal operations to protect migrat-
18 ing salmonids, consistent with knowledge gained
19 from activities carried out during 2014 and 2015;

20 (4) evaluate the combined salmonid survival in
21 light of activities carried out pursuant to paragraphs
22 (1) through (3) in deciding how to operate the Delta
23 Cross Channel gates to enhance salmonid survival
24 and water supply benefits; and

1 (5) not later than May 15, 2016, submit to the
2 appropriate committees of the House of Representa-
3 tives and the Senate a notice and explanation on the
4 extent to which the gates are able to remain open.

5 (b) RECOMMENDATIONS.—After assessing the infor-
6 mation collected under subsection (a), the Secretary of the
7 Interior shall recommend revisions to the operation of the
8 Delta Cross-Channel Gates, to the Central Valley Project,
9 and to the State Water Project, including, if appropriate,
10 any reasonable and prudent alternative contained in the
11 biological opinion issued by the National Marine Fisheries
12 Service on June 4, 2009, that are likely to produce water
13 supply benefits without causing a significant negative im-
14 pact on the long-term survival of the listed fish species
15 within the Delta or on water quality.

16 **SEC. 304. FLEXIBILITY FOR EXPORT/INFLOW RATIO.**

17 For the period of time such that in any year that
18 the Sacramento Valley index is 6.5 or lower, or at the re-
19 quest of the State of California, and until two succeeding
20 years following either of those events have been completed
21 where the final Sacramento Valley Index is 7.8 or greater,
22 the Commissioner of the Bureau of Reclamation shall con-
23 tinue to vary the averaging period of the Delta Export/
24 Inflow ratio pursuant to the California State Water Re-
25 sources Control Board decision D1641—

1 (1) to operate to a 35-percent Export/Inflow
2 ratio with a 3-day averaging period on the rising
3 limb of a Delta inflow hydrograph; and

4 (2) to operate to a 14-day averaging period on
5 the falling limb of the Delta inflow hydrograph.

6 **SEC. 305. EMERGENCY ENVIRONMENTAL REVIEWS.**

7 (a) NEPA COMPLIANCE.—To minimize the time
8 spent carrying out environmental reviews and to deliver
9 water quickly that is needed to address emergency drought
10 conditions in the State during the duration of an emer-
11 gency drought declaration, the Secretaries shall, in car-
12 rying out this Act, consult with the Council on Environ-
13 mental Quality in accordance with section 1506.11 of title
14 40, Code of Federal Regulations (including successor reg-
15 ulations), to develop alternative arrangements to comply
16 with the National Environmental Policy Act of 1969 (42
17 U.S.C. 4321 et seq.) during the emergency.

18 (b) DETERMINATIONS.—For the purposes of this sec-
19 tion, a Secretary may deem a project to be in compliance
20 with all necessary environmental regulations and reviews
21 if the Secretary determines that the immediate implemen-
22 tation of the project is necessary to address—

23 (1) human health and safety; or

24 (2) a specific and imminent loss of agriculture
25 production upon which an identifiable region de-

1 pendes for 25 percent or more of its tax revenue used
2 to support public services including schools, fire or
3 police services, city or county health facilities, unem-
4 ployment services or other associated social services.

5 **SEC. 306. INCREASED FLEXIBILITY FOR REGULAR PROJECT**
6 **OPERATIONS.**

7 The Secretaries shall, consistent with applicable laws
8 (including regulations)—

9 (1) in coordination with the California Depart-
10 ment of Water Resources and the California Depart-
11 ment of Fish and Wildlife, implement offsite up-
12 stream projects in the Delta and upstream of the
13 Sacramento River and San Joaquin basins that off-
14 set the effects on species listed as threatened or en-
15 dangered under the Endangered Species Act of 1973
16 (16 U.S.C. 1531 et seq.) due to activities carried out
17 pursuant this Act, as determined by the Secretaries;

18 (2) manage reverse flow in the Old and Middle
19 Rivers at $-6,100$ cubic feet per second if real-time
20 monitoring indicates that flows of $-6,100$ cubic feet
21 per second or more negative can be established for
22 specific periods without causing a significant nega-
23 tive impact on the long-term survival of the Delta
24 smelt, or if real-time monitoring does not support
25 flows of $-6,100$ cubic feet per second than manage

1 OMR flows at $-5,000$ cubic feet per second subject
2 to section 103(e) (3) and (4); and

3 (3) use all available scientific tools to identify
4 any changes to real-time operations of the Bureau of
5 Reclamation, State, and local water projects that
6 could result in the availability of additional water
7 supplies.

8 **SEC. 307. TEMPORARY OPERATIONAL FLEXIBILITY FOR**
9 **FIRST FEW STORMS OF THE WATER YEAR.**

10 (a) IN GENERAL.—Consistent with avoiding a signifi-
11 cant negative impact on the long-term survival in the short
12 term upon listed fish species beyond the range of those
13 authorized under the Endangered Species Act of 1973 and
14 other environmental protections under subsection (e), the
15 Secretaries shall authorize the Central Valley Project and
16 the State Water Project, combined, to operate at levels
17 that result in negative OMR flows at $-7,500$ cubic feet
18 per second (based on United States Geological Survey
19 gauges on Old and Middle Rivers) daily average for 56
20 cumulative days after October 1 as described in subsection
21 (c).

22 (b) DAYS OF TEMPORARY OPERATIONAL FLEXI-
23 BILITY.—The temporary operational flexibility described
24 in subsection (a) shall be authorized on days that the Cali-
25 fornia Department of Water Resources determines the

1 daily average river flow of the Sacramento River is at, or
2 above, 17,000 cubic feet per second as measured at the
3 Sacramento River at Freeport gauge maintained by the
4 United States Geologic Survey.

5 (c) COMPLIANCE WITH ENDANGERED SPECIES ACT
6 AUTHORIZATIONS.—In carrying out this section, the Sec-
7 retaries may continue to impose any requirements under
8 the smelt and salmonid biological opinions during any pe-
9 riod of temporary operational flexibility as they determine
10 are reasonably necessary to avoid an additional significant
11 negative impacts on the long-term survival of a listed fish
12 species beyond the range of those authorized under the
13 Endangered Species Act of 1973, provided that the re-
14 quirements imposed do not reduce water supplies available
15 for the Central Valley Project and the State Water
16 Project.

17 (d) OTHER ENVIRONMENTAL PROTECTIONS.—

18 (1) STATE LAW.—The Secretaries' actions
19 under this section shall be consistent with applicable
20 regulatory requirements under State law.

21 (2) FIRST SEDIMENT FLUSH.—During the first
22 flush of sediment out of the Delta in each water
23 year, and provided that such determination is based
24 upon objective evidence, OMR flow may be managed
25 at rates less negative than $-5,000$ cubic feet per

1 second for a minimum duration to avoid movement
2 of adult Delta smelt (*Hypomesus transpacificus*) to
3 areas in the southern Delta that would be likely to
4 increase entrainment at Central Valley Project and
5 State Water Project pumping plants.

6 (3) APPLICABILITY OF OPINION.—This section
7 shall not affect the application of the salmonid bio-
8 logical opinion from April 1 to May 31, unless the
9 Secretary of Commerce finds that some or all of
10 such applicable requirements may be adjusted dur-
11 ing this time period to provide emergency water sup-
12 ply relief without resulting in additional adverse ef-
13 fects beyond those authorized under the Endangered
14 Species Act of 1973. In addition to any other ac-
15 tions to benefit water supply, the Secretary of the
16 Interior and the Secretary of Commerce shall con-
17 sider allowing through-Delta water transfers to
18 occur during this period if they can be accomplished
19 consistent with section 3405(a)(1)(H) of the Central
20 Valley Project Improvement Act. Water transfers
21 solely or exclusively through the State Water Project
22 are not required to be consistent with section
23 3405(a)(1)(H) of the Central Valley Project Im-
24 provement Act.

1 (4) MONITORING.—During operations under
2 this section, the Commissioner of Reclamation, in
3 coordination with the Fish and Wildlife Service, Na-
4 tional Marine Fisheries Service, and California De-
5 partment of Fish and Wildlife, shall undertake a
6 monitoring program and other data gathering to en-
7 sure incidental take levels are not exceeded, and to
8 identify potential negative impacts and actions, if
9 any, necessary to mitigate impacts of the temporary
10 operational flexibility to species listed under the En-
11 dangered Species Act of 1973 (16 U.S.C. 1531 et
12 seq.).

13 (e) TECHNICAL ADJUSTMENTS TO TARGET PE-
14 RIOD.—If, before temporary operational flexibility has
15 been implemented on 56 cumulative days, the Secretaries
16 operate the Central Valley Project and the State Water
17 Project combined at levels that result in OMR flows less
18 negative than $-7,500$ cubic feet per second during days
19 of temporary operational flexibility as defined in sub-
20 section (c), the duration of such operation shall not be
21 counted toward the 56 cumulative days specified in sub-
22 section (a).

23 (f) EMERGENCY CONSULTATION; EFFECT ON RUN-
24 NING AVERAGES.—

1 (1) If necessary to implement the provisions of
2 this section, the Commissioner is authorized to take
3 any action necessary to implement this section for
4 up to 56 cumulative days. If during the 56 cumu-
5 lative days the Commissioner determines that ac-
6 tions necessary to implement this section will exceed
7 56 days, the Commissioner shall use the emergency
8 consultation procedures under the Endangered Spe-
9 cies Act of 1973 and its implementing regulation at
10 section 402.05 of title 50, Code of Federal Regula-
11 tions, to temporarily adjust the operating criteria
12 under the biological opinions—

13 (A) solely for extending beyond the 56 cu-
14 mulative days for additional days of temporary
15 operational flexibility—

16 (i) no more than necessary to achieve
17 the purposes of this section consistent with
18 the environmental protections in sub-
19 sections (d) and (e); and

20 (ii) including, as appropriate, adjust-
21 ments to ensure that the actual flow rates
22 during the periods of temporary oper-
23 ational flexibility do not count toward the
24 5-day and 14-day running averages of

1 tidally filtered daily OMR flow require-
2 ments under the biological opinions, or

3 (B) for other adjustments to operating cri-
4 teria or to take other urgent actions to address
5 water supply shortages for the least amount of
6 time or volume of diversion necessary as deter-
7 mined by the Commissioner.

8 (2) Following the conclusion of the 56 cumu-
9 lative days of temporary operational flexibility, or
10 the extended number of days covered by the emer-
11 gency consultation procedures, the Commissioner
12 shall not reinitiate consultation on these adjusted
13 operations, and no mitigation shall be required, if
14 the effects on listed fish species of these operations
15 under this section remain within the range of those
16 authorized under the Endangered Species Act of
17 1973 (16 U.S.C. 1531 et seq.). If the Commissioner
18 reinitiates consultation, no mitigation measures shall
19 be required.

20 (g) LEVEL OF DETAIL REQUIRED FOR ANALYSIS.—
21 In articulating the determinations required under this sec-
22 tion, the Secretaries shall fully satisfy the requirements
23 herein but shall not be expected to provide a greater level
24 of supporting detail for the analysis than feasible to pro-
25 vide within the short timeframe permitted for timely deci-

1 sionmaking in response to changing conditions in the
2 Delta.

3 **SEC. 308. EXPEDITING WATER TRANSFERS.**

4 (a) IN GENERAL.—Section 3405(a) of the Central
5 Valley Project Improvement Act (Public Law 102–575;
6 106 Stat. 4709(a)) is amended—

7 (1) by redesignating paragraphs (1) through
8 (3) as paragraphs (4) through (6), respectively;

9 (2) in the matter preceding paragraph (4) (as
10 so designated)—

11 (A) in the first sentence, by striking “In
12 order to” and inserting the following:

13 “(1) IN GENERAL.—In order to”; and

14 (B) in the second sentence, by striking
15 “Except as provided herein” and inserting the
16 following:

17 “(3) TERMS.—Except as otherwise provided in
18 this section”;

19 (3) by inserting before paragraph (3) (as so
20 designated) the following:

21 “(2) EXPEDITED TRANSFER OF WATER.—The
22 Secretary shall take all necessary actions to facilitate
23 and expedite transfers of Central Valley Project
24 water in accordance with—

25 “(A) this Act;

1 “(B) any other applicable provision of the
2 reclamation laws; and

3 “(C) the National Environmental Policy
4 Act of 1969 (42 U.S.C. 4321 et seq.).”;
5 (4) in paragraph (4) (as so designated)—

6 (A) in subparagraph (A), by striking “to
7 combination” and inserting “or combination”;
8 and

9 (B) by striking “3405(a)(2) of this title”
10 each place it appears and inserting “(5)”;
11 (5) in paragraph (5) (as so designated), by add-
12 ing at the end the following:

13 “(E) The contracting district from which
14 the water is coming, the agency, or the Sec-
15 retary shall determine if a written transfer pro-
16 posal is complete within 45 days after the date
17 of submission of the proposal. If the contracting
18 district or agency or the Secretary determines
19 that the proposal is incomplete, the district or
20 agency or the Secretary shall state with speci-
21 ficity what must be added to or revised for the
22 proposal to be complete.”; and

23 (6) in paragraph (6) (as so designated), by
24 striking “3405(a)(1)(A)–(C), (E), (G), (H), (I), (L),
25 and (M) of this title” and inserting “(A) through

1 (C), (E), (G), (H), (I), (L), and (M) of paragraph
2 (4)’’.

3 (b) CONFORMING AMENDMENTS.—The Central Val-
4 ley Project Improvement Act (Public Law 102–575) is
5 amended—

6 (1) in section 3407(c)(1) (106 Stat. 4726), by
7 striking “3405(a)(1)(C)” and inserting
8 “3405(a)(4)(C)”;

9 (2) in section 3408(i)(1) (106 Stat. 4729), by
10 striking “3405(a)(1) (A) and (J) of this title” and
11 inserting “subparagraphs (A) and (J) of section
12 3405(a)(4)’’.

13 **SEC. 309. ADDITIONAL EMERGENCY CONSULTATION.**

14 For adjustments to operating criteria other than
15 under section 308 of this Act or to take urgent actions
16 to address water supply shortages for the least amount
17 of time or volume of diversion necessary as determined
18 by the Commissioner of Reclamation, no mitigation meas-
19 ures shall be required during any year that the Sac-
20 ramento Valley index is 6.5 or lower, or at the request
21 of the State of California, and until two succeeding years
22 following either of those events have been completed where
23 the final Sacramento Valley Index is 7.8 or greater, and
24 any mitigation measures imposed must be based on quan-

1 titative data and required only to the extent that such data
2 demonstrates actual harm to species.

3 **SEC. 310. ADDITIONAL STORAGE AT NEW MELONES.**

4 The Commissioner of Reclamation is directed to work
5 with local water and irrigation districts in the Stanislaus
6 River Basin to ascertain the water storage made available
7 by the Draft Plan of Operations in New Melones Reservoir
8 (DRPO) for water conservation programs, conjunctive use
9 projects, water transfers, rescheduled project water and
10 other projects to maximize water storage and ensure the
11 beneficial use of the water resources in the Stanislaus
12 River Basin. All such programs and projects shall be im-
13 plemented according to all applicable laws and regulations.
14 The source of water for any such storage program at New
15 Melones Reservoir shall be made available under a valid
16 water right, consistent with the State of California water
17 transfer guidelines and any other applicable State water
18 law. The Commissioner shall inform the Congress within
19 18 months setting forth the amount of storage made avail-
20 able by the DRPO that has been put to use under this
21 program, including proposals received by the Commis-
22 sioner from interested parties for the purpose of this sec-
23 tion.

1 **SEC. 311. REGARDING THE OPERATION OF FOLSOM RES-**
2 **ERVOIR.**

3 The Secretary of the Interior, in collaboration with
4 the Sacramento Water Forum, shall expedite evaluation,
5 completion and implementation of the Modified Lower
6 American River Flow Management Standard developed by
7 the Water Forum in 2015 to improve water supply reli-
8 ability for Central Valley Project American River water
9 contractors and resource protection in the lower American
10 River during consecutive dry-years under current and fu-
11 ture demand and climate change conditions.

12 **SEC. 312. APPLICANTS.**

13 In the event that the Bureau of Reclamation or an-
14 other Federal agency initiates or reinitiates consultation
15 with the U.S. Fish and Wildlife Service or the National
16 Marine Fisheries Service under section 7(a)(2) of the En-
17 dangered Species Act of 1973 (16 U.S.C. 1536(a)(2)),
18 with respect to construction or operation of the Central
19 Valley Project and State Water Project, or any part there-
20 of, the State Water Project contractors and the Central
21 Valley Project contractors will be accorded all the rights
22 and responsibilities extended to applicants in the consulta-
23 tion process.

24 **SEC. 313. SAN JOAQUIN RIVER SETTLEMENT.**

25 (a) CALIFORNIA STATE LAW SATISFIED BY WARM
26 WATER FISHERY.—

1 (1) IN GENERAL.—Sections 5930 through 5948
2 of the California Fish and Game Code, and all appli-
3 cable Federal laws, including the San Joaquin River
4 Restoration Settlement Act (Public Law 111–11)
5 and the Stipulation of Settlement (Natural Re-
6 sources Defense Council, et al. v. Kirk Rodgers, et
7 al., Eastern District of California, No. Civ. S–88–
8 1658–LKK/GGH), shall be satisfied by the existence
9 of a warm water fishery in the San Joaquin River
10 below Friant Dam, but upstream of Gravelly Ford.

11 (2) DEFINITION OF WARM WATER FISHERY.—
12 For the purposes of this section, the term “warm
13 water fishery” means a water system that has an
14 environment suitable for species of fish other than
15 salmon (including all subspecies) and trout (includ-
16 ing all subspecies).

17 (b) REPEAL OF THE SAN JOAQUIN RIVER SETTLE-
18 MENT.—As of the date of enactment of this section, the
19 Secretary of the Interior shall cease any action to imple-
20 ment the San Joaquin River Restoration Settlement Act
21 (subtitle A of title X of Public Law 111–11) and the Stip-
22 ulation of Settlement (Natural Resources Defense Council,
23 et al. v. Kirk Rodgers, et al., Eastern District of Cali-
24 fornia, No. Civ. S–88–1658 LKK/GGH).

1 **SEC. 314. PROGRAM FOR WATER RESCHEDULING.**

2 By December 31, 2015, the Secretary of the Interior
3 shall develop and implement a program, including resched-
4 uling guidelines for Shasta and Folsom Reservoirs, to
5 allow existing Central Valley Project agricultural water
6 service contractors within the Sacramento River Water-
7 shed, and refuge service and municipal and industrial
8 water service contractors within the Sacramento River
9 Watershed and the American River Watershed to resched-
10 ule water, provided for under their Central Valley Project
11 contracts, from one year to the next; provided, that the
12 program is consistent with existing rescheduling guidelines
13 as utilized by the Bureau of Reclamation for rescheduling
14 water for Central Valley Project water service contractors
15 that are located South of the Delta.

16 **TITLE IV—CALFED STORAGE**
17 **FEASIBILITY STUDIES**

18 **SEC. 401. STUDIES.**

19 The Secretary of the Interior, through the Commis-
20 sioner of Reclamation, shall—

21 (1) complete the feasibility studies described in
22 clauses (i)(I) and (ii)(II) of section 103(d)(1)(A) of
23 Public Law 108–361 (118 Stat. 1684) and submit
24 such studies to the appropriate committees of the
25 House of Representatives and the Senate not later
26 than December 31, 2015;

1 (2) complete the feasibility study described in
2 clause (i)(II) of section 103(d)(1)(A) of Public Law
3 108–361 and submit such study to the appropriate
4 committees of the House of Representatives and the
5 Senate not later than November 30, 2016;

6 (3) complete a publicly available draft of the
7 feasibility study described in clause (ii)(I) of section
8 103(d)(1)(A) of Public Law 108–361 and submit
9 such study to the appropriate committees of the
10 House of Representatives and the Senate not later
11 than November 30, 2016;

12 (4) complete the feasibility study described in
13 clause (ii)(I) of section 103(d)(1)(A) of Public Law
14 108–361 and submit such study to the appropriate
15 committees of the House of Representatives and the
16 Senate not later than November 30, 2017;

17 (5) complete the feasibility study described in
18 section 103(f)(1)(A) of Public Law 108–361 (118
19 Stat. 1694) and submit such study to the appro-
20 priate Committees of the House of Representatives
21 and the Senate not later than December 31, 2017;

22 (6) provide a progress report on the status of
23 the feasibility studies referred to in paragraphs (1)
24 through (3) to the appropriate committees of the
25 House of Representatives and the Senate not later

1 than 90 days after the date of the enactment of this
2 Act and each 180 days thereafter until December
3 31, 2017, as applicable. The report shall include
4 timelines for study completion, draft environmental
5 impact statements, final environmental impact state-
6 ments, and Records of Decision;

7 (7) in conducting any feasibility study under
8 this Act, the reclamation laws, the Central Valley
9 Project Improvement Act (title XXXIV of Public
10 Law 102–575; 106 Stat. 4706), the Fish and Wild-
11 life Coordination Act (16 U.S.C. 661 et seq.), the
12 Endangered Species Act of 1973 (16 U.S.C. 1531 et
13 seq.), and other applicable law, for the purposes of
14 determining feasibility the Secretary shall document,
15 delineate, and publish costs directly relating to the
16 engineering and construction of a water storage
17 project separately from the costs resulting from reg-
18 ulatory compliance or the construction of auxiliary
19 facilities necessary to achieve regulatory compliance;
20 and

21 (8) communicate, coordinate and cooperate with
22 public water agencies that contract with the United
23 States for Central Valley Project water and that are
24 expected to participate in the cost pools that will be

1 created for the projects proposed in the feasibility
2 studies under this section.

3 **SEC. 402. TEMPERANCE FLAT.**

4 (a) DEFINITIONS.—For the purposes of this section:

5 (1) PROJECT.—The term “Project” means the
6 Temperance Flat Reservoir Project on the Upper
7 San Joaquin River.

8 (2) RMP.—The term “RMP” means the docu-
9 ment titled “Bakersfield Field Office, Record of De-
10 cision and Approved Resource Management Plan,”
11 dated December 2014.

12 (3) SECRETARY.—The term “Secretary” means
13 the Secretary of the Interior.

14 (b) APPLICABILITY OF RMP.—The RMP and find-
15 ings related thereto shall have no effect on or applicability
16 to the Secretary’s determination of feasibility of, or on any
17 findings or environmental review documents related to—

18 (1) the Project; or

19 (2) actions taken by the Secretary pursuant to
20 section 103(d)(1)(A)(ii)(II) of the Bay-Delta Au-
21 thorization Act (title I of Public Law 108–361).

22 (c) DUTIES OF SECRETARY UPON DETERMINATION
23 OF FEASIBILITY.—If the Secretary finds the Project to
24 be feasible, the Secretary shall manage the land rec-
25 ommended in the RMP for designation under the Wild and

1 Scenic Rivers Act (16 U.S.C. 1271 et seq.) in a manner
2 that does not impede any environmental reviews,
3 preconstruction, construction, or other activities of the
4 Project, regardless of whether or not the Secretary sub-
5 mits any official recommendation to Congress under the
6 Wild and Scenic Rivers Act.

7 (d) RESERVED WATER RIGHTS.—Effective Decem-
8 ber 22, 2014, there shall be no Federal reserved water
9 rights to any segment of the San Joaquin River related
10 to the Project as a result of any designation made under
11 the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.).

12 **SEC. 403. CALFED STORAGE ACCOUNTABILITY.**

13 If the Secretary of the Interior fails to provide the
14 feasibility studies described in section 401 to the appro-
15 priate committees of the House of Representatives and the
16 Senate by the times prescribed, the Secretary shall notify
17 each committee chair individually in person on the status
18 of each project once a month until the feasibility study
19 for that project is provided to Congress.

20 **SEC. 404. WATER STORAGE PROJECT CONSTRUCTION.**

21 (a) PARTNERSHIP AND AGREEMENTS.—The Sec-
22 retary of the Interior, acting through the Commissioner
23 of the Bureau of Reclamation, may partner or enter into
24 an agreement on the water storage projects identified in
25 section 103(d)(1) of the Water Supply Reliability and En-

1 vironmental Improvement Act (Public Law 108–361) (and
2 Acts supplemental and amendatory to the Act) with local
3 joint powers authorities formed pursuant to State law by
4 irrigation districts and other local water districts and local
5 governments within the applicable hydrologic region, to
6 advance those projects.

7 (b) AUTHORIZATION FOR PROJECT.—If the Secretary
8 determines a project described in section 402(a)(1) and
9 (2) is feasible, the Secretary is authorized to carry out
10 the project in a manner that is substantially in accordance
11 with the recommended plan, and subject to the conditions
12 described in the feasibility study, provided that no Federal
13 funding shall be used to construct the project.

14 **TITLE V—WATER RIGHTS** 15 **PROTECTIONS**

16 **SEC. 501. OFFSET FOR STATE WATER PROJECT.**

17 (a) IMPLEMENTATION IMPACTS.—The Secretary of
18 the Interior shall confer with the California Department
19 of Fish and Wildlife in connection with the implementa-
20 tion of this Act on potential impacts to any consistency
21 determination for operations of the State Water Project
22 issued pursuant to California Fish and Game Code section
23 2080.1.

1 (b) ADDITIONAL YIELD.—If, as a result of the appli-
2 cation of this Act, the California Department of Fish and
3 Wildlife—

4 (1) revokes the consistency determinations pur-
5 suant to California Fish and Game Code section
6 2080.1 that are applicable to the State Water
7 Project;

8 (2) amends or issues one or more new consist-
9 ency determinations pursuant to California Fish and
10 Game Code section 2080.1 in a manner that directly
11 or indirectly results in reduced water supply to the
12 State Water Project as compared with the water
13 supply available under the smelt biological opinion
14 and the salmonid biological opinion; or

15 (3) requires take authorization under California
16 Fish and Game Code section 2081 for operation of
17 the State Water Project in a manner that directly or
18 indirectly results in reduced water supply to the
19 State Water Project as compared with the water
20 supply available under the smelt biological opinion
21 and the salmonid biological opinion, and as a con-
22 sequence of the Department's action, Central Valley
23 Project yield is greater than it would have been ab-
24 sent the Department's actions, then that additional
25 yield shall be made available to the State Water

1 Project for delivery to State Water Project contrac-
2 tors to offset losses resulting from the Department's
3 action.

4 (c) NOTIFICATION RELATED TO ENVIRONMENTAL
5 PROTECTIONS.—The Secretary of the Interior shall imme-
6 diately notify the Director of the California Department
7 of Fish and Wildlife in writing if the Secretary of the Inte-
8 rior determines that implementation of the smelt biological
9 opinion and the salmonid biological opinion consistent with
10 this Act reduces environmental protections for any species
11 covered by the opinions.

12 **SEC. 502. AREA OF ORIGIN PROTECTIONS.**

13 (a) IN GENERAL.—The Secretary of the Interior is
14 directed, in the operation of the Central Valley Project,
15 to adhere to California's water rights laws governing water
16 rights priorities and to honor water rights senior to those
17 held by the United States for operation of the Central Val-
18 ley Project, regardless of the source of priority, including
19 any appropriative water rights initiated prior to December
20 19, 1914, as well as water rights and other priorities per-
21 fected or to be perfected pursuant to California Water
22 Code Part 2 of Division 2. Article 1.7 (commencing with
23 section 1215 of chapter 1 of part 2 of division 2, sections
24 10505, 10505.5, 11128, 11460, 11461, 11462, and
25 11463, and sections 12200 to 12220, inclusive).

1 (b) DIVERSIONS.—Any action undertaken by the Sec-
2 retary of the Interior and the Secretary of Commerce pur-
3 suant to both this Act and section 7 of the Endangered
4 Species Act of 1973 (16 U.S.C. 1531 et seq.) that requires
5 that diversions from the Sacramento River or the San Joa-
6 quin River watersheds upstream of the Delta be bypassed
7 shall not be undertaken in a manner that alters the water
8 rights priorities established by California law.

9 (c) ENDANGERED SPECIES ACT.—Nothing in this
10 title alters the existing authorities provided to and obliga-
11 tions placed upon the Federal Government under the En-
12 dangered Species Act of 1973 (16 U.S.C. 1531 et seq.),
13 as amended.

14 (d) CONTRACTS.—With respect to individuals and en-
15 tities with water rights on the Sacramento River, the man-
16 dates of this section may be met, in whole or in part,
17 through a contract with the Secretary of the Interior exe-
18 cuted pursuant to section 14 of Public Law 76–260; 53
19 Stat. 1187 (43 U.S.C. 389) that is in conformance with
20 the Sacramento River Settlement Contracts renewed by
21 the Secretary of the Interior in 2005.

22 **SEC. 503. NO REDIRECTED ADVERSE IMPACTS.**

23 (a) IN GENERAL.—The Secretary of the Interior shall
24 ensure that, except as otherwise provided for in a water
25 service or repayment contract, actions taken in compliance

1 with legal obligations imposed pursuant to or as a result
2 of this Act, including such actions under section 7 of the
3 Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)
4 and other applicable Federal and State laws, shall not di-
5 rectly or indirectly—

6 (1) result in the involuntary reduction of water
7 supply or fiscal impacts to individuals or districts
8 who receive water from either the State Water
9 Project or the United States under water rights set-
10 tlement contracts, exchange contracts, water service
11 contracts, repayment contracts, or water supply con-
12 tracts; or

13 (2) cause redirected adverse water supply or fis-
14 cal impacts to those within the Sacramento River
15 watershed, the San Joaquin River watershed or the
16 State Water Project service area.

17 (b) COSTS.—To the extent that costs are incurred
18 solely pursuant to or as a result of this Act and would
19 not otherwise have been incurred by any entity or public
20 or local agency or subdivision of the State of California,
21 such costs shall not be borne by any such entity, agency,
22 or subdivision of the State of California, unless such costs
23 are incurred on a voluntary basis.

1 (c) RIGHTS AND OBLIGATIONS NOT MODIFIED OR
2 AMENDED.—Nothing in this Act shall modify or amend
3 the rights and obligations of the parties to any existing—

4 (1) water service, repayment, settlement, pur-
5 chase, or exchange contract with the United States,
6 including the obligation to satisfy exchange contracts
7 and settlement contracts prior to the allocation of
8 any other Central Valley Project water; or

9 (2) State Water Project water supply or settle-
10 ment contract with the State.

11 **SEC. 504. ALLOCATIONS FOR SACRAMENTO VALLEY CON-**
12 **TRACTORS.**

13 (a) ALLOCATIONS.—

14 (1) IN GENERAL.—Subject to paragraph (2)
15 and subsection (b), the Secretary of the Interior is
16 directed, in the operation of the Central Valley
17 Project, to allocate water provided for irrigation pur-
18 poses to existing Central Valley Project agricultural
19 water service contractors within the Sacramento
20 River Watershed in compliance with the following:

21 (A) Not less than 100 percent of their con-
22 tract quantities in a “Wet” year.

23 (B) Not less than 100 percent of their con-
24 tract quantities in an “Above Normal” year.

1 (C) Not less than 100 percent of their con-
2 tract quantities in a “Below Normal” year that
3 is preceded by an “Above Normal” or a “Wet”
4 year.

5 (D) Not less than 50 percent of their con-
6 tract quantities in a “Dry” year that is pre-
7 ceded by a “Below Normal,” an “Above Nor-
8 mal,” or a “Wet” year.

9 (E) In all other years not identified herein,
10 the allocation percentage for existing Central
11 Valley Project agricultural water service con-
12 tractors within the Sacramento River Water-
13 shed shall not be less than twice the allocation
14 percentage to south-of-Delta Central Valley
15 Project agricultural water service contractors,
16 up to 100 percent; provided, that nothing here-
17 in shall preclude an allocation to existing Cen-
18 tral Valley Project agricultural water service
19 contractors within the Sacramento River Water-
20 shed that is greater than twice the allocation
21 percentage to south-of-Delta Central Valley
22 Project agricultural water service contractors.

23 (2) CONDITIONS.—The Secretary’s actions
24 under paragraph (a) shall be subject to—

1 (A) the priority of individuals or entities
2 with Sacramento River water rights, including
3 those with Sacramento River Settlement Con-
4 tracts, that have priority to the diversion and
5 use of Sacramento River water over water
6 rights held by the United States for operations
7 of the Central Valley Project;

8 (B) the United States obligation to make
9 a substitute supply of water available to the
10 San Joaquin River Exchange Contractors; and

11 (C) the Secretary's obligation to make
12 water available to managed wetlands pursuant
13 to section 3406(d) of the Central Valley Project
14 Improvement Act (Public Law 102–575).

15 (b) PROTECTION OF MUNICIPAL AND INDUSTRIAL
16 SUPPLIES.—Nothing in subsection (a) shall be deemed
17 to—

18 (1) modify any provision of a water service con-
19 tract that addresses municipal and industrial water
20 shortage policies of the Secretary;

21 (2) affect or limit the authority of the Secretary
22 to adopt or modify municipal and industrial water
23 shortage policies;

1 (3) affect or limit the authority of the Secretary
2 to implement municipal and industrial water short-
3 age policies; or

4 (4) affect allocations to Central Valley Project
5 municipal and industrial contractors pursuant to
6 such policies.

7 Neither subsection (a) nor the Secretary's implementation
8 of subsection (a) shall constrain, govern or affect, directly,
9 the operations of the Central Valley Project's American
10 River Division or any deliveries from that Division, its
11 units or facilities.

12 (c) NO EFFECT ON ALLOCATIONS.—This section
13 shall not—

14 (1) affect the allocation of water to Friant Divi-
15 sion contractors; or

16 (2) result in the involuntary reduction in con-
17 tract water allocations to individuals or entities with
18 contracts to receive water from the Friant Division.

19 (d) PROGRAM FOR WATER RESCHEDULING.—The
20 Secretary of the Interior shall develop and implement a
21 program, not later than 1 year after the date of the enact-
22 ment of this Act, to provide for the opportunity for exist-
23 ing Central Valley Project agricultural water service con-
24 tractors within the Sacramento River Watershed to re-

1 schedule water, provided for under their Central Valley
 2 Project water service contracts, from one year to the next.

3 (e) DEFINITIONS.—In this section:

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

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

15 **SEC. 505. EFFECT ON EXISTING OBLIGATIONS.**

16 Nothing in this Act preempts or modifies any existing
 17 obligation of the United States under Federal reclamation
 18 law to operate the Central Valley Project in conformity
 19 with State law, including established water rights prior-
 20 ities.

21 **TITLE VI—MISCELLANEOUS**

22 **SEC. 601. AUTHORIZED SERVICE AREA.**

23 (a) IN GENERAL.—The authorized service area of the
 24 Central Valley Project authorized under the Central Valley
 25 Project Improvement Act (Public Law 102–575; 106 Stat.

1 4706) shall include the area within the boundaries of the
2 Kettleman City Community Services District, California,
3 as in existence on the date of enactment of this Act.

4 (b) LONG-TERM CONTRACT.—

5 (1) IN GENERAL.—Notwithstanding the Central
6 Valley Project Improvement Act (Public Law 102–
7 575; 106 Stat. 4706) and subject to paragraph (2),
8 the Secretary of the Interior, in accordance with the
9 Federal reclamation laws, shall enter into a long-
10 term contract with the Kettleman City Community
11 Services District, California, under terms and condi-
12 tions mutually agreeable to the parties, for the deliv-
13 ery of up to 900 acre-feet of Central Valley Project
14 water for municipal and industrial use.

15 (2) LIMITATION.—Central Valley Project water
16 deliveries authorized under the contract entered into
17 under paragraph (1) shall be limited to the minimal
18 quantity necessary to meet the immediate needs of
19 the Kettleman City Community Services District,
20 California, in the event that local supplies or State
21 Water Project allocations are insufficient to meet
22 those needs.

23 (c) PERMIT.—The Secretary shall apply for a permit
24 with the State for a joint place of use for water deliveries
25 authorized under the contract entered into under sub-

1 section (b) with respect to the expanded service area under
 2 subsection (a), consistent with State law.

3 (d) ADDITIONAL COSTS.—If any additional infra-
 4 structure, water treatment, or related costs are needed to
 5 implement this section, those costs shall be the responsi-
 6 bility of the non-Federal entity.

7 **SEC. 602. OVERSIGHT BOARD FOR RESTORATION FUND.**

8 (a) PLAN; ADVISORY BOARD.—Section 3407 of the
 9 Central Valley Project Improvement Act (Public Law
 10 102–575; 106 Stat. 4726) is amended by adding at the
 11 end the following:

12 “(g) PLAN ON EXPENDITURE OF FUNDS.—

13 “(1) IN GENERAL.—For each fiscal year, the
 14 Secretary, in consultation with the Advisory Board,
 15 shall submit to Congress a plan for the expenditure
 16 of all of the funds deposited into the Restoration
 17 Fund during the preceding fiscal year.

18 “(2) CONTENTS.—The plan shall include an
 19 analysis of the cost-effectiveness of each expenditure.

20 “(h) ADVISORY BOARD.—

21 “(1) ESTABLISHMENT.—There is established
 22 the Restoration Fund Advisory Board (referred to in
 23 this section as the ‘Advisory Board’), which shall be
 24 composed of 11 members appointed by the Sec-
 25 retary.

1 “(2) MEMBERSHIP.—

2 “(A) IN GENERAL.—The Secretary shall
3 appoint members to the Advisory Board that
4 represent the various Central Valley Project
5 stakeholders, of whom—

6 “(i) 4 members shall be agricultural
7 users of the Central Valley Project, includ-
8 ing at least one agricultural user from
9 north-of-the-Delta and one agricultural
10 user from south-of-the-Delta;

11 “(ii) 2 members shall be municipal
12 and industrial users of the Central Valley
13 Project, including one municipal and in-
14 dustrial user from north-of-the-Delta and
15 one municipal and industrial user from
16 south-of-the-Delta;

17 “(iii) 2 members shall be power con-
18 tractors of the Central Valley Project, in-
19 cluding at least one power contractor from
20 north-of-the-Delta and from south-of-the-
21 Delta;

22 “(iv) 1 member shall be a representa-
23 tive of a Federal national wildlife refuge
24 that contracts for Central Valley Project

1 water supplies with the Bureau of Rec-
2 lamation;

3 “(v) 1 member shall have expertise in
4 the economic impacts of the changes to
5 water operations; and

6 “(vi) 1 member shall be a representa-
7 tive of a wildlife entity that primarily fo-
8 cuses on waterfowl.

9 “(B) OBSERVER.—The Secretary and the
10 Secretary of Commerce may each designate a
11 representative to act as an observer of the Advi-
12 sory Board.

13 “(C) CHAIR.—The Secretary shall appoint
14 1 of the members described in subparagraph
15 (A) to serve as Chair of the Advisory Board.

16 “(3) TERMS.—The term of each member of the
17 Advisory Board shall be 4 years.

18 “(4) DATE OF APPOINTMENTS.—The appoint-
19 ment of a member of the Panel shall be made not
20 later than—

21 “(A) the date that is 120 days after the
22 date of enactment of this Act; or

23 “(B) in the case of a vacancy on the Panel
24 described in subsection (c)(2), the date that is

1 120 days after the date on which the vacancy
2 occurs.

3 “(5) VACANCIES.—

4 “(A) IN GENERAL.—A vacancy on the
5 Panel shall be filled in the manner in which the
6 original appointment was made and shall be
7 subject to any conditions that applied with re-
8 spect to the original appointment.

9 “(B) FILLING UNEXPIRED TERM.—An in-
10 dividual chosen to fill a vacancy shall be ap-
11 pointed for the unexpired term of the member
12 replaced.

13 “(C) EXPIRATION OF TERMS.—The term
14 of any member shall not expire before the date
15 on which the successor of the member takes of-
16 fice.

17 “(6) REMOVAL.—A member of the Panel may
18 be removed from office by the Secretary of the Inte-
19 rior.

20 “(7) FEDERAL ADVISORY COMMITTEE ACT.—
21 The Panel shall not be subject to the requirements
22 of the Federal Advisory Committee Act.

23 “(8) DUTIES.—The duties of the Advisory
24 Board are—

1 “(A) to meet not less frequently than semi-
2 annually to develop and make recommendations
3 to the Secretary regarding priorities and spend-
4 ing levels on projects and programs carried out
5 under this title;

6 “(B) to ensure that any advice given or
7 recommendation made by the Advisory Board
8 reflects the independent judgment of the Advi-
9 sory Board;

10 “(C) not later than December 31, 2015,
11 and annually thereafter, to submit to the Sec-
12 retary and Congress the recommendations
13 under subparagraph (A); and

14 “(D) not later than December 31, 2015,
15 and biennially thereafter, to submit to Congress
16 details of the progress made in achieving the
17 actions required under section 3406.

18 “(9) ADMINISTRATION.—With the consent of
19 the appropriate agency head, the Advisory Board
20 may use the facilities and services of any Federal
21 agency.

22 “(10) COOPERATION AND ASSISTANCE.—

23 “(A) PROVISION OF INFORMATION.—Upon
24 request of the Panel Chair for information or
25 assistance to facilitate carrying out this section,

1 the Secretary of the Interior shall promptly pro-
2 vide such information, unless otherwise prohib-
3 ited by law.

4 “(B) SPACE AND ASSISTANCE.—The Sec-
5 retary of the Interior shall provide the Panel
6 with appropriate and adequate office space, to-
7 gether with such equipment, office supplies, and
8 communications facilities and services as may
9 be necessary for the operation of the Panel, and
10 shall provide necessary maintenance services for
11 such offices and the equipment and facilities lo-
12 cated therein.”.

13 **SEC. 603. WATER SUPPLY ACCOUNTING.**

14 (a) IN GENERAL.—All Central Valley Project water,
15 except Central Valley Project water released pursuant to
16 U.S. Department of the Interior Record of Decision, Trin-
17 ity River Mainstem Fishery Restoration Final Environ-
18 mental Impact Statement/Environmental Impact Report
19 dated December 2000 used to implement an action under-
20 taken for a fishery beneficial purpose that was not im-
21 posed by terms and conditions existing in licenses, per-
22 mits, and other agreements pertaining to the Central Val-
23 ley Project under applicable State or Federal law existing
24 on October 30, 1992, shall be credited to the quantity of
25 Central Valley Project yield dedicated and managed under

1 this section; provided, that nothing herein shall affect the
2 Secretary of the Interior's duty to comply with any other-
3 wise lawful requirement imposed on operations of the Cen-
4 tral Valley Project under any provision of Federal or State
5 law.

6 (b) RECLAMATION POLICIES AND ALLOCATIONS.—
7 Reclamation policies and allocations shall not be based
8 upon any premise or assumption that Central Valley
9 Project contract supplies are supplemental or secondary
10 to any other contractor source of supply.

11 **SEC. 604. IMPLEMENTATION OF WATER REPLACEMENT**
12 **PLAN.**

13 (a) IN GENERAL.—Not later than October 1, 2016,
14 the Secretary of the Interior shall update and implement
15 the plan required by section 3408(j) of title XXXIV of
16 Public Law 102–575. The Secretary shall notify the Con-
17 gress annually describing the progress of implementing
18 the plan required by section 3408(j) of title XXXIV of
19 Public Law 102–575.

20 (b) POTENTIAL AMENDMENT.—If the plan required
21 in subsection (a) has not increased the Central Valley
22 Project yield by 800,000 acre-feet within 5 years after the
23 enactment of this Act, then section 3406 of the Central
24 Valley Project Improvement Act (title XXXIV of Public
25 Law 102–575) is amended as follows:

1 (1) In subsection (b)—

2 (A) by amending paragraph (2)(C) to read:

3 “(C) If by March 15, 2021, and any year
4 thereafter the quantity of Central Valley
5 Project water forecasted to be made available to
6 all water service or repayment contractors of
7 the Central Valley Project is below 50 percent
8 of the total quantity of water to be made avail-
9 able under said contracts, the quantity of Cen-
10 tral Valley Project yield dedicated and managed
11 for that year under this paragraph shall be re-
12 duced by 25 percent.”.

13 **SEC. 605. NATURAL AND ARTIFICIALLY SPAWNED SPECIES.**

14 After the date of the enactment of this title, and re-
15 gardless of the date of listing, the Secretaries of the Inte-
16 rior and Commerce shall not distinguish between natural-
17 spawned and hatchery-spawned or otherwise artificially
18 propagated strains of a species in making any determina-
19 tion under the Endangered Species Act of 1973 (16
20 U.S.C. 1531 et seq.) that relates to any anadromous or
21 pelagic fish species that resides for all or a portion of its
22 life in the Sacramento-San Joaquin Delta or rivers tribu-
23 tary thereto.

1 **SEC. 606. TRANSFER THE NEW MELONES UNIT, CENTRAL**
2 **VALLEY PROJECT TO INTERESTED PRO-**
3 **VIDERS.**

4 (a) DEFINITIONS.—For the purposes of this section,
5 the following terms apply:

6 (1) INTERESTED LOCAL WATER AND POWER
7 PROVIDERS.—The term “interested local water and
8 power providers” includes the Calaveras County
9 Water District, Calaveras Public Power Agency,
10 Central San Joaquin Water Conservation District,
11 Oakdale Irrigation District, Stockton East Water
12 District, South San Joaquin Irrigation District,
13 Tuolumne Utilities District, Tuolumne Public Power
14 Agency, and Union Public Utilities District.

15 (2) NEW MELONES UNIT, CENTRAL VALLEY
16 PROJECT.—The term “New Melones Unit, Central
17 Valley Project” means all Federal reclamation
18 projects located within or diverting water from or to
19 the watershed of the Stanislaus and San Joaquin
20 rivers and their tributaries as authorized by the Act
21 of August 26, 1937 (50 Stat. 850), and all Acts
22 amendatory or supplemental thereto, including the
23 Act of October 23, 1962 (76 Stat. 1173).

24 (3) SECRETARY.—The term “Secretary” means
25 the Secretary of the Interior.

1 (b) NEGOTIATIONS.—Notwithstanding any other pro-
2 vision of law, not later than 180 days after the date of
3 the enactment of this Act, the Secretary shall enter into
4 negotiations with interested local water and power pro-
5 viders for the transfer ownership, control, and operation
6 of the New Melones Unit, Central Valley Project to inter-
7 ested local water and power providers within the State of
8 California.

9 (c) TRANSFER.—The Secretary shall transfer the
10 New Melones Unit, Central Valley Project in accordance
11 with an agreement reached pursuant to negotiations con-
12 ducted under subsection (b).

13 (d) NOTIFICATION.—Not later than 360 days after
14 the date of the enactment of this Act, and every 6 months
15 thereafter, the Secretary shall notify the appropriate com-
16 mittees of the House of Representatives and the Senate—

17 (1) if an agreement is reached pursuant to ne-
18 gotiations conducted under subsection (b), the terms
19 of that agreement;

20 (2) of the status of formal discussions with in-
21 terested local water and power providers for the
22 transfer of ownership, control, and operation of the
23 New Melones Unit, Central Valley Project to inter-
24 ested local water and power providers;

1 (3) of all unresolved issues that are preventing
2 execution of an agreement for the transfer of owner-
3 ship, control, and operation of the New Melones
4 Unit, Central Valley Project to interested local water
5 and power providers;

6 (4) on analysis and review of studies, reports,
7 discussions, hearing transcripts, negotiations, and
8 other information about past and present formal dis-
9 cussions that—

10 (A) have a serious impact on the progress
11 of the formal discussions;

12 (B) explain or provide information about
13 the issues that prevent progress or finalization
14 of formal discussions; or

15 (C) are, in whole or in part, preventing
16 execution of an agreement for the transfer; and

17 (5) of any actions the Secretary recommends
18 that the United States should take to finalize an
19 agreement for that transfer.

20 **SEC. 607. BASIN STUDIES.**

21 (a) AUTHORIZED STUDIES.—The Secretary of the In-
22 terior is authorized and directed to expand opportunities
23 and expedite completion of assessments under section
24 9503(b) of the SECURE Water Act (42 U.S.C.
25 10363(b)), with non-Federal partners, of individual sub-

1 basins and watersheds within major Reclamation river ba-
2 sins; and shall ensure timely decision and expedited imple-
3 mentation of adaptation and mitigation strategies devel-
4 oped through the special study process.

5 (b) FUNDING.—

6 (1) IN GENERAL.—The non-Federal partners
7 shall be responsible for 100 percent of the cost of
8 the special studies.

9 (2) CONTRIBUTED FUNDS.—The Secretary may
10 accept and use contributions of funds from the non-
11 Federal partners to carry out activities under the
12 special studies.

13 **SEC. 608. OPERATIONS OF THE TRINITY RIVER DIVISION.**

14 The Secretary of the Interior, in the operation of the
15 Trinity River Division of the Central Valley Project, shall
16 not make releases from Lewiston Dam in excess of the
17 volume for each water-year type required by the U.S. De-
18 partment of the Interior Record of Decision, Trinity River
19 Mainstem Fishery Restoration Final Environmental Im-
20 pact Statement/Environmental Impact Report dated De-
21 cember 2000.

22 (1) A maximum of 369,000 acre-feet in a
23 “Critically Dry” year.

24 (2) A maximum of 453,000 acre-feet in a
25 “Dry” year.

1 (3) A maximum of 647,000 acre-feet in a “Nor-
2 mal” year.

3 (4) A maximum of 701,000 acre-feet in a
4 “Wet” year.

5 (5) A maximum of 815,000 acre-feet in an
6 “Extremely Wet” year.

7 **SEC. 609. AMENDMENT TO PURPOSES.**

8 Section 3402 of the Central Valley Project Improve-
9 ment Act (106 Stat. 4706) is amended—

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

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

13 “(g) to ensure that water dedicated to fish and wild-
14 life purposes by this title is replaced and provided to Cen-
15 tral Valley Project water contractors by December 31,
16 2018, at the lowest cost reasonably achievable; and

17 “(h) to facilitate and expedite water transfers in ac-
18 cordance with this Act.”.

19 **SEC. 610. AMENDMENT TO DEFINITION.**

20 Section 3403 of the Central Valley Project Improve-
21 ment Act (106 Stat. 4707) is amended—

22 (1) by amending subsection (a) to read as fol-
23 lows:

24 “(a) the term ‘anadromous fish’ means those native
25 stocks of salmon (including steelhead) and sturgeon that,

1 as of October 30, 1992, were present in the Sacramento
 2 and San Joaquin Rivers and their tributaries and ascend
 3 those rivers and their tributaries to reproduce after matur-
 4 ing in San Francisco Bay or the Pacific Ocean;”;

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

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

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

9 “(n) the term ‘reasonable flow’ means water flows ca-
 10 pable of being maintained taking into account competing
 11 consumptive uses of water and economic, environmental,
 12 and social factors.”.

13 **SEC. 611. REPORT ON RESULTS OF WATER USAGE.**

14 The Secretary of the Interior, in consultation with the
 15 Secretary of Commerce and the Secretary of Natural Re-
 16 sources of the State of California, shall publish an annual
 17 report detailing instream flow releases from the Central
 18 Valley Project and California State Water Project, their
 19 explicit purpose and authority, and all measured environ-
 20 mental benefit as a result of the releases.

21 **SEC. 612. KLAMATH PROJECT CONSULTATION APPLICANTS.**

22 If the Bureau of Reclamation initiates or reinitiates
 23 consultation with the U.S. Fish and Wildlife Service or
 24 the National Marine Fisheries Service under section
 25 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C.

1 1536(a)(2)), with respect to construction or operation of
 2 the Klamath Project (or any part thereof), Klamath
 3 Project contractors shall be accorded all the rights and
 4 responsibilities extended to applicants in the consultation
 5 process. Upon request of the Klamath Project contractors,
 6 they may be represented through an association or organi-
 7 zation.

8 **TITLE VII—WATER SUPPLY** 9 **PERMITTING ACT**

10 **SEC. 701. SHORT TITLE.**

11 This title may be cited as the “Water Supply Permit-
 12 ting Coordination Act”.

13 **SEC. 702. DEFINITIONS.**

14 In this title:

15 (1) SECRETARY.—The term “Secretary” means
 16 the Secretary of the Interior.

17 (2) BUREAU.—The term “Bureau” means the
 18 Bureau of Reclamation.

19 (3) QUALIFYING PROJECTS.—The term “quali-
 20 fying projects” means new surface water storage
 21 projects in the States covered under the Act of June
 22 17, 1902 (32 Stat. 388, chapter 1093), and Acts
 23 supplemental to and amendatory of that Act (43
 24 U.S.C. 371 et seq.) constructed on lands adminis-
 25 tered by the Department of the Interior or the De-

1 partment of Agriculture, exclusive of any easement,
2 right-of-way, lease, or any private holding.

3 (4) COOPERATING AGENCIES.—The term “co-
4 operating agency” means a Federal agency with ju-
5 risdiction over a review, analysis, opinion, statement,
6 permit, license, or other approval or decision re-
7 quired for a qualifying project under applicable Fed-
8 eral laws and regulations, or a State agency subject
9 to section 703(c).

10 **SEC. 703. ESTABLISHMENT OF LEAD AGENCY AND COOPER-**
11 **ATING AGENCIES.**

12 (a) ESTABLISHMENT OF LEAD AGENCY.—The Bu-
13 reau of Reclamation is established as the lead agency for
14 purposes of coordinating all reviews, analyses, opinions,
15 statements, permits, licenses, or other approvals or deci-
16 sions required under Federal law to construct qualifying
17 projects.

18 (b) IDENTIFICATION AND ESTABLISHMENT OF CO-
19 OPERATING AGENCIES.—The Commissioner of the Bureau
20 shall—

21 (1) identify, as early as practicable upon receipt
22 of an application for a qualifying project, any Fed-
23 eral agency that may have jurisdiction over a review,
24 analysis, opinion, statement, permit, license, ap-

1 proval, or decision required for a qualifying project
2 under applicable Federal laws and regulations; and

3 (2) notify any such agency, within a reasonable
4 timeframe, that the agency has been designated as
5 a cooperating agency in regards to the qualifying
6 project unless that agency responds to the Bureau in
7 writing, within a timeframe set forth by the Bureau,
8 notifying the Bureau that the agency—

9 (A) has no jurisdiction or authority with
10 respect to the qualifying project;

11 (B) has no expertise or information rel-
12 evant to the qualifying project or any review,
13 analysis, opinion, statement, permit, license, or
14 other approval or decision associated therewith;
15 or

16 (C) does not intend to submit comments
17 on the qualifying project or conduct any review
18 of such a project or make any decision with re-
19 spect to such project in a manner other than in
20 cooperation with the Bureau.

21 (c) STATE AUTHORITY.—A State in which a quali-
22 fying project is being considered may choose, consistent
23 with State law—

24 (1) to participate as a cooperating agency; and

1 (2) to make subject to the processes of this title
2 all State agencies that—

3 (A) have jurisdiction over the qualifying
4 project;

5 (B) are required to conduct or issue a re-
6 view, analysis, or opinion for the qualifying
7 project; or

8 (C) are required to make a determination
9 on issuing a permit, license, or approval for the
10 qualifying project.

11 **SEC. 704. BUREAU RESPONSIBILITIES.**

12 (a) IN GENERAL.—The principal responsibilities of
13 the Bureau under this title are to—

14 (1) serve as the point of contact for applicants,
15 State agencies, Indian tribes, and others regarding
16 proposed qualifying projects;

17 (2) coordinate preparation of unified environ-
18 mental documentation that will serve as the basis for
19 all Federal decisions necessary to authorize the use
20 of Federal lands for qualifying projects; and

21 (3) coordinate all Federal agency reviews nec-
22 essary for project development and construction of
23 qualifying projects.

24 (b) COORDINATION PROCESS.—The Bureau shall
25 have the following coordination responsibilities:

1 (1) PRE-APPLICATION COORDINATION.—Notify
2 cooperating agencies of proposed qualifying projects
3 not later than 30 days after receipt of a proposal
4 and facilitate a preapplication meeting for prospec-
5 tive applicants, relevant Federal and State agencies,
6 and Indian tribes to—

7 (A) explain applicable processes, data re-
8 quirements, and applicant submissions nec-
9 essary to complete the required Federal agency
10 reviews within the timeframe established; and

11 (B) establish the schedule for the quali-
12 fying project.

13 (2) CONSULTATION WITH COOPERATING AGEN-
14 CIES.—Consult with the cooperating agencies
15 throughout the Federal agency review process, iden-
16 tify and obtain relevant data in a timely manner,
17 and set necessary deadlines for cooperating agencies.

18 (3) SCHEDULE.—Work with the qualifying
19 project applicant and cooperating agencies to estab-
20 lish a project schedule. In establishing the schedule,
21 the Bureau shall consider, among other factors—

22 (A) the responsibilities of cooperating
23 agencies under applicable laws and regulations;

1 (B) the resources available to the cooper-
2 ating agencies and the non-Federal qualifying
3 project sponsor, as applicable;

4 (C) the overall size and complexity of the
5 qualifying project;

6 (D) the overall schedule for and cost of the
7 qualifying project; and

8 (E) the sensitivity of the natural and his-
9 toric resources that may be affected by the
10 qualifying project.

11 (4) ENVIRONMENTAL COMPLIANCE.—Prepare a
12 unified environmental review document for each
13 qualifying project application, incorporating a single
14 environmental record on which all cooperating agen-
15 cies with authority to issue approvals for a given
16 qualifying project shall base project approval deci-
17 sions. Help ensure that cooperating agencies make
18 necessary decisions, within their respective authori-
19 ties, regarding Federal approvals in accordance with
20 the following timelines:

21 (A) Not later than one year after accept-
22 ance of a completed project application when an
23 environmental assessment and finding of no sig-
24 nificant impact is determined to be the appro-
25 priate level of review under the National Envi-

1 ronmental Policy Act of 1969 (42 U.S.C. 4321
2 et seq.).

3 (B) Not later than one year and 30 days
4 after the close of the public comment period for
5 a draft environmental impact statement under
6 the National Environmental Policy Act of 1969
7 (42 U.S.C. 4321 et seq.), when an environ-
8 mental impact statement is required under the
9 same.

10 (5) CONSOLIDATED ADMINISTRATIVE
11 RECORD.—Maintain a consolidated administrative
12 record of the information assembled and used by the
13 cooperating agencies as the basis for agency deci-
14 sions.

15 (6) PROJECT DATA RECORDS.—To the extent
16 practicable and consistent with Federal law, ensure
17 that all project data is submitted and maintained in
18 generally accessible electronic format, compile, and
19 where authorized under existing law, make available
20 such project data to cooperating agencies, the quali-
21 fying project applicant, and to the public.

22 (7) PROJECT MANAGER.—Appoint a project
23 manager for each qualifying project. The project
24 manager shall have authority to oversee the project
25 and to facilitate the issuance of the relevant final

1 authorizing documents, and shall be responsible for
2 ensuring fulfillment of all Bureau responsibilities set
3 forth in this section and all cooperating agency re-
4 sponsibilities under section 705.

5 **SEC. 705. COOPERATING AGENCY RESPONSIBILITIES.**

6 (a) ADHERENCE TO BUREAU SCHEDULE.—Upon no-
7 tification of an application for a qualifying project, all co-
8 operating agencies shall submit to the Bureau a timeframe
9 under which the cooperating agency reasonably considers
10 it will be able to complete its authorizing responsibilities.
11 The Bureau shall use the timeframe submitted under this
12 subsection to establish the project schedule under section
13 704, and the cooperating agencies shall adhere to the
14 project schedule established by the Bureau.

15 (b) ENVIRONMENTAL RECORD.—Cooperating agen-
16 cies shall submit to the Bureau all environmental review
17 material produced or compiled in the course of carrying
18 out activities required under Federal law consistent with
19 the project schedule established by the Bureau.

20 (c) DATA SUBMISSION.—To the extent practicable
21 and consistent with Federal law, the cooperating agencies
22 shall submit all relevant project data to the Bureau in a
23 generally accessible electronic format subject to the project
24 schedule set forth by the Bureau.

1 **SEC. 706. FUNDING TO PROCESS PERMITS.**

2 (a) IN GENERAL.—The Secretary, after public notice
3 in accordance with the Administrative Procedures Act (5
4 U.S.C. 553), may accept and expend funds contributed by
5 a non-Federal public entity to expedite the evaluation of
6 a permit of that entity related to a qualifying project.

7 (b) EFFECT ON PERMITTING.—

8 (1) IN GENERAL.—In carrying out this section,
9 the Secretary shall ensure that the use of funds ac-
10 cepted under subsection (a) will not impact impartial
11 decisionmaking with respect to permits, either sub-
12 stantively or procedurally.

13 (2) EVALUATION OF PERMITS.—In carrying out
14 this section, the Secretary shall ensure that the eval-
15 uation of permits carried out using funds accepted
16 under this section shall—

17 (A) be reviewed by the Regional Director
18 of the Bureau, or the Regional Director's des-
19 ignee, of the region in which the qualifying
20 project or activity is located; and

21 (B) use the same procedures for decisions
22 that would otherwise be required for the evalua-
23 tion of permits for similar projects or activities
24 not carried out using funds authorized under
25 this section.

1 (3) IMPARTIAL DECISIONMAKING.—In carrying
2 out this section, the Secretary and the cooperating
3 agencies receiving funds under this section for quali-
4 fying projects shall ensure that the use of the funds
5 accepted under this section for such projects shall
6 not—

7 (A) impact impartial decisionmaking with
8 respect to the issuance of permits, either sub-
9 stantively or procedurally; or

10 (B) diminish, modify, or otherwise affect
11 the statutory or regulatory authorities of such
12 agencies.

13 (c) LIMITATION ON USE OF FUNDS.—None of the
14 funds accepted under this section shall be used to carry
15 out a review of the evaluation of permits required under
16 subsection (b)(2)(A).

17 (d) PUBLIC AVAILABILITY.—The Secretary shall en-
18 sure that all final permit decisions carried out using funds
19 authorized under this section are made available to the
20 public, including on the Internet.

1 **TITLE VIII—BUREAU OF REC-**
2 **LAMATION PROJECT STREAM-**
3 **LINING**

4 **SEC. 801. SHORT TITLE.**

5 This title may be cited as the “Bureau of Reclama-
6 tion Project Streamlining Act”.

7 **SEC. 802. DEFINITIONS.**

8 In this title:

9 (1) ENVIRONMENTAL IMPACT STATEMENT.—

10 The term “environmental impact statement” means
11 the detailed statement of environmental impacts of
12 a project required to be prepared pursuant to the
13 National Environmental Policy Act of 1969 (42
14 U.S.C. 4321 et seq.).

15 (2) ENVIRONMENTAL REVIEW PROCESS.—

16 (A) IN GENERAL.—The term “environ-
17 mental review process” means the process of
18 preparing an environmental impact statement,
19 environmental assessment, categorical exclusion,
20 or other document under the National Environ-
21 mental Policy Act of 1969 (42 U.S.C. 4321 et
22 seq.) for a project study.

23 (B) INCLUSIONS.—The term “environ-
24 mental review process” includes the process for
25 and completion of any environmental permit,

1 approval, review, or study required for a project
2 study under any Federal law other than the
3 National Environmental Policy Act of 1969 (42
4 U.S.C. 4321 et seq.).

5 (3) FEDERAL JURISDICTIONAL AGENCY.—The
6 term “Federal jurisdictional agency” means a Fed-
7 eral agency with jurisdiction delegated by law, regu-
8 lation, order, or otherwise over a review, analysis,
9 opinion, statement, permit, license, or other approval
10 or decision required for a project study under appli-
11 cable Federal laws (including regulations).

12 (4) FEDERAL LEAD AGENCY.—The term “Fed-
13 eral lead agency” means the Bureau of Reclamation.

14 (5) PROJECT.—The term “project” means a
15 surface water project, a project under the purview of
16 title XVI of Public Law 102–575, or a rural water
17 supply project investigated under Public Law 109–
18 451 to be carried out, funded or operated in whole
19 or in part by the Secretary pursuant to the Act of
20 June 17, 1902 (32 Stat. 388, chapter 1093), and
21 Acts supplemental to and amendatory of that Act
22 (43 U.S.C. 371 et seq.).

23 (6) PROJECT SPONSOR.—The term “project
24 sponsor” means a State, regional, or local authority
25 or instrumentality or other qualifying entity, such as

1 a water conservation district, irrigation district,
2 water conservancy district, joint powers authority,
3 mutual water company, canal company, rural water
4 district or association, or any other entity that has
5 the capacity to contract with the United States
6 under Federal reclamation law.

7 (7) PROJECT STUDY.—The term “project
8 study” means a feasibility study for a project carried
9 out pursuant to the Act of June 17, 1902 (32 Stat.
10 388, chapter 1093), and Acts supplemental to and
11 amendatory of that Act (43 U.S.C. 371 et seq.).

12 (8) SECRETARY.—The term “Secretary” means
13 the Secretary of the Interior.

14 (9) SURFACE WATER STORAGE.—The term
15 “surface water storage” means any surface water
16 reservoir or impoundment that would be owned,
17 funded or operated in whole or in part by the Bu-
18 reau of Reclamation or that would be integrated into
19 a larger system owned, operated or administered in
20 whole or in part by the Bureau of Reclamation.

21 **SEC. 803. ACCELERATION OF STUDIES.**

22 (a) IN GENERAL.—To the extent practicable, a
23 project study initiated by the Secretary, after the date of
24 enactment of this Act, under the Reclamation Act of 1902

1 (32 Stat. 388), and all Acts amendatory thereof or supple-
2 mentary thereto, shall—

3 (1) result in the completion of a final feasibility
4 report not later than 3 years after the date of initi-
5 ation;

6 (2) have a maximum Federal cost of
7 \$3,000,000; and

8 (3) ensure that personnel from the local project
9 area, region, and headquarters levels of the Bureau
10 of Reclamation concurrently conduct the review re-
11 quired under this section.

12 (b) EXTENSION.—If the Secretary determines that a
13 project study described in subsection (a) will not be con-
14 ducted in accordance with subsection (a), the Secretary,
15 not later than 30 days after the date of making the deter-
16 mination, shall—

17 (1) prepare an updated project study schedule
18 and cost estimate;

19 (2) notify the non-Federal project cost-sharing
20 partner that the project study has been delayed; and

21 (3) provide written notice to the Committee on
22 Natural Resources of the House of Representatives
23 and the Committee on Energy and Natural Re-
24 sources of the Senate as to the reasons the require-
25 ments of subsection (a) are not attainable.

1 (c) EXCEPTION.—

2 (1) IN GENERAL.—Notwithstanding the re-
3 quirements of subsection (a), the Secretary may ex-
4 tend the timeline of a project study by a period not
5 to exceed 3 years, if the Secretary determines that
6 the project study is too complex to comply with the
7 requirements of subsection (a).

8 (2) FACTORS.—In making a determination that
9 a study is too complex to comply with the require-
10 ments of subsection (a), the Secretary shall con-
11 sider—

12 (A) the type, size, location, scope, and
13 overall cost of the project;

14 (B) whether the project will use any inno-
15 vative design or construction techniques;

16 (C) whether the project will require signifi-
17 cant action by other Federal, State, or local
18 agencies;

19 (D) whether there is significant public dis-
20 pute as to the nature or effects of the project;
21 and

22 (E) whether there is significant public dis-
23 pute as to the economic or environmental costs
24 or benefits of the project.

1 (3) NOTIFICATION.—Each time the Secretary
2 makes a determination under this subsection, the
3 Secretary shall provide written notice to the Com-
4 mittee on Natural Resources of the House of Rep-
5 resentatives and the Committee on Energy and Nat-
6 ural Resources of the Senate as to the results of
7 that determination, including an identification of the
8 specific one or more factors used in making the de-
9 termination that the project is complex.

10 (4) LIMITATION.—The Secretary shall not ex-
11 tend the timeline for a project study for a period of
12 more than 7 years, and any project study that is not
13 completed before that date shall no longer be au-
14 thorized.

15 (d) REVIEWS.—Not later than 90 days after the date
16 of the initiation of a project study described in subsection
17 (a), the Secretary shall—

18 (1) take all steps necessary to initiate the proc-
19 ess for completing federally mandated reviews that
20 the Secretary is required to complete as part of the
21 study, including the environmental review process
22 under section 805;

23 (2) convene a meeting of all Federal, tribal, and
24 State agencies identified under section 805(d) that
25 may—

1 (A) have jurisdiction over the project;

2 (B) be required by law to conduct or issue
3 a review, analysis, opinion, or statement for the
4 project study; or

5 (C) be required to make a determination
6 on issuing a permit, license, or other approval
7 or decision for the project study; and

8 (3) take all steps necessary to provide informa-
9 tion that will enable required reviews and analyses
10 related to the project to be conducted by other agen-
11 cies in a thorough and timely manner.

12 (e) INTERIM REPORT.—Not later than 18 months
13 after the date of enactment of this Act, the Secretary shall
14 submit to the Committee on Natural Resources of the
15 House of Representatives and the Committee on Energy
16 and Natural Resources of the Senate and make publicly
17 available a report that describes—

18 (1) the status of the implementation of the
19 planning process under this section, including the
20 number of participating projects;

21 (2) a review of project delivery schedules, in-
22 cluding a description of any delays on those studies
23 initiated prior to the date of the enactment of this
24 Act; and

1 (3) any recommendations for additional author-
2 ity necessary to support efforts to expedite the
3 project.

4 (f) FINAL REPORT.—Not later than 4 years after the
5 date of enactment of this Act, the Secretary shall submit
6 to the Committee on Natural Resources of the House of
7 Representatives and the Committee on Energy and Nat-
8 ural Resources of the Senate and make publicly available
9 a report that describes—

10 (1) the status of the implementation of this sec-
11 tion, including a description of each project study
12 subject to the requirements of this section;

13 (2) the amount of time taken to complete each
14 project study; and

15 (3) any recommendations for additional author-
16 ity necessary to support efforts to expedite the
17 project study process, including an analysis of
18 whether the limitation established by subsection
19 (a)(2) needs to be adjusted to address the impacts
20 of inflation.

21 **SEC. 804. EXPEDITED COMPLETION OF REPORTS.**

22 The Secretary shall—

23 (1) expedite the completion of any ongoing
24 project study initiated before the date of enactment
25 of this Act; and

1 (2) if the Secretary determines that the project
2 is justified in a completed report, proceed directly to
3 preconstruction planning, engineering, and design of
4 the project in accordance with the Reclamation Act
5 of 1902 (32 Stat. 388), and all Acts amendatory
6 thereof or supplementary thereto.

7 **SEC. 805. PROJECT ACCELERATION.**

8 (a) APPLICABILITY.—

9 (1) IN GENERAL.—This section shall apply to—

10 (A) each project study that is initiated
11 after the date of enactment of this Act and for
12 which an environmental impact statement is
13 prepared under the National Environmental
14 Policy Act of 1969 (42 U.S.C. 4321 et seq.);

15 (B) the extent determined appropriate by
16 the Secretary, to other project studies initiated
17 before the date of enactment of this Act and for
18 which an environmental review process docu-
19 ment is prepared under the National Environ-
20 mental Policy Act of 1969 (42 U.S.C. 4321 et
21 seq.); and

22 (C) any project study for the development
23 of a non-federally owned and operated surface
24 water storage project for which the Secretary

determines there is a demonstrable Federal interest and the project—

(i) is located in a river basin where other Bureau of Reclamation water projects are located;

(ii) will create additional water supplies that support Bureau of Reclamation water projects; or

(iii) will become integrated into the operation of Bureau of Reclamation water projects.

(2) FLEXIBILITY.—Any authority granted under this section may be exercised, and any requirement established under this section may be satisfied, for the conduct of an environmental review process for a project study, a class of project studies, or a program of project studies.

(3) LIST OF PROJECT STUDIES.—

(A) IN GENERAL.—The Secretary shall annually prepare, and make publicly available, a list of all project studies that the Secretary has determined—

(i) meets the standards described in paragraph (1); and

1 (ii) does not have adequate funding to
2 make substantial progress toward the com-
3 pletion of the project study.

4 (B) INCLUSIONS.—The Secretary shall in-
5 clude for each project study on the list under
6 subparagraph (A) a description of the estimated
7 amounts necessary to make substantial progress
8 on the project study.

9 (b) PROJECT REVIEW PROCESS.—

10 (1) IN GENERAL.—The Secretary shall develop
11 and implement a coordinated environmental review
12 process for the development of project studies.

13 (2) COORDINATED REVIEW.—The coordinated
14 environmental review process described in paragraph
15 (1) shall require that any review, analysis, opinion,
16 statement, permit, license, or other approval or deci-
17 sion issued or made by a Federal, State, or local
18 governmental agency or an Indian tribe for a project
19 study described in subsection (b) be conducted, to
20 the maximum extent practicable, concurrently with
21 any other applicable governmental agency or Indian
22 tribe.

23 (3) TIMING.—The coordinated environmental
24 review process under this subsection shall be com-
25 pleted not later than the date on which the Sec-

1 retary, in consultation and concurrence with the
2 agencies identified under section 805(d), establishes
3 with respect to the project study.

4 (c) LEAD AGENCIES.—

5 (1) JOINT LEAD AGENCIES.—

6 (A) IN GENERAL.—Subject to the require-
7 ments of the National Environmental Policy
8 Act of 1969 (42 U.S.C. 4321 et seq.) and the
9 requirements of section 1506.8 of title 40, Code
10 of Federal Regulations (or successor regula-
11 tions), including the concurrence of the pro-
12 posed joint lead agency, a project sponsor may
13 serve as the joint lead agency.

14 (B) PROJECT SPONSOR AS JOINT LEAD
15 AGENCY.—A project sponsor that is a State or
16 local governmental entity may—

17 (i) with the concurrence of the Sec-
18 retary, serve as a joint lead agency with
19 the Federal lead agency for purposes of
20 preparing any environmental document
21 under the National Environmental Policy
22 Act of 1969 (42 U.S.C. 4321 et seq.); and

23 (ii) prepare any environmental review
24 process document under the National En-
25 vironmental Policy Act of 1969 (42 U.S.C.

1 4321 et seq.) required in support of any
2 action or approval by the Secretary if—

3 (I) the Secretary provides guid-
4 ance in the preparation process and
5 independently evaluates that docu-
6 ment;

7 (II) the project sponsor complies
8 with all requirements applicable to the
9 Secretary under—

10 (aa) the National Environ-
11 mental Policy Act of 1969 (42
12 U.S.C. 4321 et seq.);

13 (bb) any regulation imple-
14 menting that Act; and

15 (cc) any other applicable
16 Federal law; and

17 (III) the Secretary approves and
18 adopts the document before the Sec-
19 retary takes any subsequent action or
20 makes any approval based on that
21 document, regardless of whether the
22 action or approval of the Secretary re-
23 sults in Federal funding.

24 (2) DUTIES.—The Secretary shall ensure
25 that—

1 (A) the project sponsor complies with all
2 design and mitigation commitments made joint-
3 ly by the Secretary and the project sponsor in
4 any environmental document prepared by the
5 project sponsor in accordance with this sub-
6 section; and

7 (B) any environmental document prepared
8 by the project sponsor is appropriately supple-
9 mented to address any changes to the project
10 the Secretary determines are necessary.

11 (3) ADOPTION AND USE OF DOCUMENTS.—Any
12 environmental document prepared in accordance
13 with this subsection shall be adopted and used by
14 any Federal agency making any determination re-
15 lated to the project study to the same extent that
16 the Federal agency could adopt or use a document
17 prepared by another Federal agency under—

18 (A) the National Environmental Policy Act
19 of 1969 (42 U.S.C. 4321 et seq.); and

20 (B) parts 1500 through 1508 of title 40,
21 Code of Federal Regulations (or successor regu-
22 lations).

23 (4) ROLES AND RESPONSIBILITY OF LEAD
24 AGENCY.—With respect to the environmental review

1 process for any project study, the Federal lead agen-
2 cy shall have authority and responsibility—

3 (A) to take such actions as are necessary
4 and proper and within the authority of the Fed-
5 eral lead agency to facilitate the expeditious
6 resolution of the environmental review process
7 for the project study; and

8 (B) to prepare or ensure that any required
9 environmental impact statement or other envi-
10 ronmental review document for a project study
11 required to be completed under the National
12 Environmental Policy Act of 1969 (42 U.S.C.
13 4321 et seq.) is completed in accordance with
14 this section and applicable Federal law.

15 (d) PARTICIPATING AND COOPERATING AGENCIES.—

16 (1) IDENTIFICATION OF JURISDICTIONAL AGEN-
17 CIES.—With respect to carrying out the environ-
18 mental review process for a project study, the Sec-
19 retary shall identify, as early as practicable in the
20 environmental review process, all Federal, State, and
21 local government agencies and Indian tribes that
22 may—

23 (A) have jurisdiction over the project;

1 (B) be required by law to conduct or issue
2 a review, analysis, opinion, or statement for the
3 project study; or

4 (C) be required to make a determination
5 on issuing a permit, license, or other approval
6 or decision for the project study.

7 (2) STATE AUTHORITY.—If the environmental
8 review process is being implemented by the Sec-
9 retary for a project study within the boundaries of
10 a State, the State, consistent with State law, may
11 choose to participate in the process and to make
12 subject to the process all State agencies that—

13 (A) have jurisdiction over the project;

14 (B) are required to conduct or issue a re-
15 view, analysis, opinion, or statement for the
16 project study; or

17 (C) are required to make a determination
18 on issuing a permit, license, or other approval
19 or decision for the project study.

20 (3) INVITATION.—

21 (A) IN GENERAL.—The Federal lead agen-
22 cy shall invite, as early as practicable in the en-
23 vironmental review process, any agency identi-
24 fied under paragraph (1) to become a partici-
25 pating or cooperating agency, as applicable, in

1 the environmental review process for the project
2 study.

3 (B) DEADLINE.—An invitation to partici-
4 pate issued under subparagraph (A) shall set a
5 deadline by which a response to the invitation
6 shall be submitted, which may be extended by
7 the Federal lead agency for good cause.

8 (4) PROCEDURES.—Section 1501.6 of title 40,
9 Code of Federal Regulations (as in effect on the
10 date of enactment of the Bureau of Reclamation
11 Project Streamlining Act) shall govern the identi-
12 fication and the participation of a cooperating agen-
13 cy.

14 (5) FEDERAL COOPERATING AGENCIES.—Any
15 Federal agency that is invited by the Federal lead
16 agency to participate in the environmental review
17 process for a project study shall be designated as a
18 cooperating agency by the Federal lead agency un-
19 less the invited agency informs the Federal lead
20 agency, in writing, by the deadline specified in the
21 invitation that the invited agency—

22 (A)(i) has no jurisdiction or authority with
23 respect to the project;

24 (ii) has no expertise or information rel-
25 evant to the project; or

1 (iii) does not have adequate funds to par-
2 ticipate in the project; and

3 (B) does not intend to submit comments
4 on the project.

5 (6) ADMINISTRATION.—A participating or co-
6 operating agency shall comply with this section and
7 any schedule established under this section.

8 (7) EFFECT OF DESIGNATION.—Designation as
9 a participating or cooperating agency under this
10 subsection shall not imply that the participating or
11 cooperating agency—

12 (A) supports a proposed project; or

13 (B) has any jurisdiction over, or special ex-
14 pertise with respect to evaluation of, the
15 project.

16 (8) CONCURRENT REVIEWS.—Each partici-
17 pating or cooperating agency shall—

18 (A) carry out the obligations of that agen-
19 cy under other applicable law concurrently and
20 in conjunction with the required environmental
21 review process, unless doing so would prevent
22 the participating or cooperating agency from
23 conducting needed analysis or otherwise car-
24 rying out those obligations; and

1 (B) formulate and implement administra-
2 tive, policy, and procedural mechanisms to en-
3 able the agency to ensure completion of the en-
4 vironmental review process in a timely, coordi-
5 nated, and environmentally responsible manner.

6 (e) NON-FEDERAL PROJECTS INTEGRATED INTO
7 RECLAMATION SYSTEMS.—The Federal lead agency shall
8 serve in that capacity for the entirety of all non-Federal
9 projects that will be integrated into a larger system owned,
10 operated or administered in whole or in part by the Bu-
11 reau of Reclamation.

12 (f) NON-FEDERAL PROJECT.—If the Secretary deter-
13 mines that a project can be expedited by a non-Federal
14 sponsor and that there is a demonstrable Federal interest
15 in expediting that project, the Secretary shall take such
16 actions as are necessary to advance such a project as a
17 non-Federal project, including, but not limited to, entering
18 into agreements with the non-Federal sponsor of such
19 project to support the planning, design and permitting of
20 such project as a non-Federal project.

21 (g) PROGRAMMATIC COMPLIANCE.—

22 (1) IN GENERAL.—The Secretary shall issue
23 guidance regarding the use of programmatic ap-
24 proaches to carry out the environmental review proc-
25 ess that—

1 (A) eliminates repetitive discussions of the
2 same issues;

3 (B) focuses on the actual issues ripe for
4 analyses at each level of review;

5 (C) establishes a formal process for coordi-
6 nating with participating and cooperating agen-
7 cies, including the creation of a list of all data
8 that are needed to carry out an environmental
9 review process; and

10 (D) complies with—

11 (i) the National Environmental Policy
12 Act of 1969 (42 U.S.C. 4321 et seq.); and

13 (ii) all other applicable laws.

14 (2) REQUIREMENTS.—In carrying out para-
15 graph (1), the Secretary shall—

16 (A) as the first step in drafting guidance
17 under that paragraph, consult with relevant
18 Federal, State, and local governmental agen-
19 cies, Indian tribes, and the public on the appro-
20 priate use and scope of the programmatic ap-
21 proaches;

22 (B) emphasize the importance of collabora-
23 tion among relevant Federal, State, and local
24 governmental agencies, and Indian tribes in un-
25 dertaking programmatic reviews, especially with

1 respect to including reviews with a broad geo-
2 graphical scope;

3 (C) ensure that the programmatic re-
4 views—

5 (i) promote transparency, including of
6 the analyses and data used in the environ-
7 mental review process, the treatment of
8 any deferred issues raised by Federal,
9 State, and local governmental agencies, In-
10 dian tribes, or the public, and the temporal
11 and special scales to be used to analyze
12 those issues;

13 (ii) use accurate and timely informa-
14 tion in the environmental review process,
15 including—

16 (I) criteria for determining the
17 general duration of the usefulness of
18 the review; and

19 (II) the timeline for updating any
20 out-of-date review;

21 (iii) describe—

22 (I) the relationship between pro-
23 grammatic analysis and future tiered
24 analysis; and

- 1 (II) the role of the public in the
2 creation of future tiered analysis; and
3 (iv) are available to other relevant
4 Federal, State, and local governmental
5 agencies, Indian tribes, and the public;
6 (D) allow not fewer than 60 days of public
7 notice and comment on any proposed guidance;
8 and
9 (E) address any comments received under
10 subparagraph (D).

11 (h) COORDINATED REVIEWS.—

12 (1) COORDINATION PLAN.—

13 (A) ESTABLISHMENT.—The Federal lead
14 agency shall, after consultation with and with
15 the concurrence of each participating and co-
16 operating agency and the project sponsor or
17 joint lead agency, as applicable, establish a plan
18 for coordinating public and agency participation
19 in, and comment on, the environmental review
20 process for a project study or a category of
21 project studies.

22 (B) SCHEDULE.—

23 (i) IN GENERAL.—As soon as prac-
24 ticable but not later than 45 days after the
25 close of the public comment period on a

1 draft environmental impact statement, the
2 Federal lead agency, after consultation
3 with and the concurrence of each partici-
4 pating and cooperating agency and the
5 project sponsor or joint lead agency, as ap-
6 plicable, shall establish, as part of the co-
7 ordination plan established in subpara-
8 graph (A), a schedule for completion of the
9 environmental review process for the
10 project study.

11 (ii) FACTORS FOR CONSIDERATION.—

12 In establishing a schedule, the Secretary
13 shall consider factors such as—

14 (I) the responsibilities of partici-
15 pating and cooperating agencies under
16 applicable laws;

17 (II) the resources available to the
18 project sponsor, joint lead agency, and
19 other relevant Federal and State
20 agencies, as applicable;

21 (III) the overall size and com-
22 plexity of the project;

23 (IV) the overall schedule for and
24 cost of the project; and

1 (V) the sensitivity of the natural
2 and historical resources that could be
3 affected by the project.

4 (iii) MODIFICATIONS.—The Secretary
5 may—

6 (I) lengthen a schedule estab-
7 lished under clause (i) for good cause;
8 and

9 (II) shorten a schedule only with
10 concurrence of the affected partici-
11 pating and cooperating agencies and
12 the project sponsor or joint lead agen-
13 cy, as applicable.

14 (iv) DISSEMINATION.—A copy of a
15 schedule established under clause (i) shall
16 be—

17 (I) provided to each participating
18 and cooperating agency and the
19 project sponsor or joint lead agency,
20 as applicable; and

21 (II) made available to the public.

22 (2) COMMENT DEADLINES.—The Federal lead
23 agency shall establish the following deadlines for
24 comment during the environmental review process
25 for a project study:

1 (A) DRAFT ENVIRONMENTAL IMPACT
2 STATEMENTS.—For comments by Federal and
3 State agencies and the public on a draft envi-
4 ronmental impact statement, a period of not
5 more than 60 days after publication in the Fed-
6 eral Register of notice of the date of public
7 availability of the draft environmental impact
8 statement, unless—

9 (i) a different deadline is established
10 by agreement of the Federal lead agency,
11 the project sponsor or joint lead agency, as
12 applicable, and all participating and co-
13 operating agencies; or

14 (ii) the deadline is extended by the
15 Federal lead agency for good cause.

16 (B) OTHER ENVIRONMENTAL REVIEW
17 PROCESSES.—For all other comment periods es-
18 tablished by the Federal lead agency for agency
19 or public comments in the environmental review
20 process, a period of not more than 30 days
21 after the date on which the materials on which
22 comment is requested are made available, un-
23 less—

24 (i) a different deadline is established
25 by agreement of the Federal lead agency,

1 the project sponsor, or joint lead agency,
2 as applicable, and all participating and co-
3 operating agencies; or

4 (ii) the deadline is extended by the
5 Federal lead agency for good cause.

6 (3) DEADLINES FOR DECISIONS UNDER OTHER
7 LAWS.—In any case in which a decision under any
8 Federal law relating to a project study, including the
9 issuance or denial of a permit or license, is required
10 to be made by the date described in subsection
11 (i)(5)(B), the Secretary shall submit to the Com-
12 mittee on Natural Resources of the House of Rep-
13 resentatives and the Committee on Energy and Nat-
14 ural Resources of the Senate—

15 (A) as soon as practicable after the 180-
16 day period described in subsection (i)(5)(B), an
17 initial notice of the failure of the Federal agen-
18 cy to make the decision; and

19 (B) every 60 days thereafter until such
20 date as all decisions of the Federal agency re-
21 lating to the project study have been made by
22 the Federal agency, an additional notice that
23 describes the number of decisions of the Fed-
24 eral agency that remain outstanding as of the
25 date of the additional notice.

1 (4) INVOLVEMENT OF THE PUBLIC.—Nothing
2 in this subsection reduces any time period provided
3 for public comment in the environmental review
4 process under applicable Federal law (including reg-
5 ulations).

6 (5) TRANSPARENCY REPORTING.—

7 (A) REPORTING REQUIREMENTS.—Not
8 later than 1 year after the date of enactment of
9 this Act, the Secretary shall establish and main-
10 tain an electronic database and, in coordination
11 with other Federal and State agencies, issue re-
12 porting requirements to make publicly available
13 the status and progress with respect to compli-
14 ance with applicable requirements of the Na-
15 tional Environmental Policy Act of 1969 (42
16 U.S.C. 4321 et seq.) and any other Federal,
17 State, or local approval or action required for a
18 project study for which this section is applica-
19 ble.

20 (B) PROJECT STUDY TRANSPARENCY.—

21 Consistent with the requirements established
22 under subparagraph (A), the Secretary shall
23 make publicly available the status and progress
24 of any Federal, State, or local decision, action,
25 or approval required under applicable laws for

1 each project study for which this section is ap-
2 plicable.

3 (i) ISSUE IDENTIFICATION AND RESOLUTION.—

4 (1) COOPERATION.—The Federal lead agency,
5 the cooperating agencies, and any participating
6 agencies shall work cooperatively in accordance with
7 this section to identify and resolve issues that could
8 delay completion of the environmental review process
9 or result in the denial of any approval required for
10 the project study under applicable laws.

11 (2) FEDERAL LEAD AGENCY RESPONSIBIL-
12 ITIES.—

13 (A) IN GENERAL.—The Federal lead agen-
14 cy shall make information available to the co-
15 operating agencies and participating agencies as
16 early as practicable in the environmental review
17 process regarding the environmental and socio-
18 economic resources located within the project
19 area and the general locations of the alter-
20 natives under consideration.

21 (B) DATA SOURCES.—The information
22 under subparagraph (A) may be based on exist-
23 ing data sources, including geographic informa-
24 tion systems mapping.

1 (3) COOPERATING AND PARTICIPATING AGENCY
2 RESPONSIBILITIES.—Based on information received
3 from the Federal lead agency, cooperating and par-
4 ticipating agencies shall identify, as early as prac-
5 ticable, any issues of concern regarding the potential
6 environmental or socioeconomic impacts of the
7 project, including any issues that could substantially
8 delay or prevent an agency from granting a permit
9 or other approval that is needed for the project
10 study.

11 (4) ACCELERATED ISSUE RESOLUTION AND
12 ELEVATION.—

13 (A) IN GENERAL.—On the request of a
14 participating or cooperating agency or project
15 sponsor, the Secretary shall convene an issue
16 resolution meeting with the relevant partici-
17 pating and cooperating agencies and the project
18 sponsor or joint lead agency, as applicable, to
19 resolve issues that may—

20 (i) delay completion of the environ-
21 mental review process; or

22 (ii) result in denial of any approval re-
23 quired for the project study under applica-
24 ble laws.

1 (B) MEETING DATE.—A meeting requested
2 under this paragraph shall be held not later
3 than 21 days after the date on which the Sec-
4 retary receives the request for the meeting, un-
5 less the Secretary determines that there is good
6 cause to extend that deadline.

7 (C) NOTIFICATION.—On receipt of a re-
8 quest for a meeting under this paragraph, the
9 Secretary shall notify all relevant participating
10 and cooperating agencies of the request, includ-
11 ing the issue to be resolved and the date for the
12 meeting.

13 (D) ELEVATION OF ISSUE RESOLUTION.—
14 If a resolution cannot be achieved within the
15 30-day period beginning on the date of a meet-
16 ing under this paragraph and a determination
17 is made by the Secretary that all information
18 necessary to resolve the issue has been ob-
19 tained, the Secretary shall forward the dispute
20 to the heads of the relevant agencies for resolu-
21 tion.

22 (E) CONVENTION BY SECRETARY.—The
23 Secretary may convene an issue resolution
24 meeting under this paragraph at any time, at
25 the discretion of the Secretary, regardless of

1 whether a meeting is requested under subpara-
2 graph (A).

3 (5) FINANCIAL PENALTY PROVISIONS.—

4 (A) IN GENERAL.—A Federal jurisdictional
5 agency shall complete any required approval or
6 decision for the environmental review process
7 on an expeditious basis using the shortest exist-
8 ing applicable process.

9 (B) FAILURE TO DECIDE.—

10 (i) IN GENERAL.—

11 (I) TRANSFER OF FUNDS.—If a
12 Federal jurisdictional agency fails to
13 render a decision required under any
14 Federal law relating to a project study
15 that requires the preparation of an
16 environmental impact statement or
17 environmental assessment, including
18 the issuance or denial of a permit, li-
19 cense, statement, opinion, or other ap-
20 proval by the date described in clause
21 (ii), the amount of funds made avail-
22 able to support the office of the head
23 of the Federal jurisdictional agency
24 shall be reduced by an amount of
25 funding equal to the amount specified

1 in item (aa) or (bb) of subclause (II),
2 and those funds shall be made avail-
3 able to the division of the Federal ju-
4 risdictional agency charged with ren-
5 dering the decision by not later than
6 1 day after the applicable date under
7 clause (ii), and once each week there-
8 after until a final decision is rendered,
9 subject to subparagraph (C).

10 (II) AMOUNT TO BE TRANS-
11 FERRED.—The amount referred to in
12 subclause (I) is—

13 (aa) \$20,000 for any project
14 study requiring the preparation
15 of an environmental assessment
16 or environmental impact state-
17 ment; or

18 (bb) \$10,000 for any project
19 study requiring any type of re-
20 view under the National Environ-
21 mental Policy Act of 1969 (42
22 U.S.C. 4321 et seq.) other than
23 an environmental assessment or
24 environmental impact statement.

1 (ii) DESCRIPTION OF DATE.—The
2 date referred to in clause (i) is the later
3 of—

4 (I) the date that is 180 days
5 after the date on which an application
6 for the permit, license, or approval is
7 complete; and

8 (II) the date that is 180 days
9 after the date on which the Federal
10 lead agency issues a decision on the
11 project under the National Environ-
12 mental Policy Act of 1969 (42 U.S.C.
13 4321 et seq.).

14 (C) LIMITATIONS.—

15 (i) IN GENERAL.—No transfer of
16 funds under subparagraph (B) relating to
17 an individual project study shall exceed, in
18 any fiscal year, an amount equal to 1 per-
19 cent of the funds made available for the
20 applicable agency office.

21 (ii) FAILURE TO DECIDE.—The total
22 amount transferred in a fiscal year as a re-
23 sult of a failure by an agency to make a
24 decision by an applicable deadline shall not
25 exceed an amount equal to 5 percent of the

1 funds made available for the applicable
2 agency office for that fiscal year.

3 (iii) AGGREGATE.—Notwithstanding
4 any other provision of law, for each fiscal
5 year, the aggregate amount of financial
6 penalties assessed against each applicable
7 agency office under this Act and any other
8 Federal law as a result of a failure of the
9 agency to make a decision by an applicable
10 deadline for environmental review, includ-
11 ing the total amount transferred under this
12 paragraph, shall not exceed an amount
13 equal to 9.5 percent of the funds made
14 available for the agency office for that fis-
15 cal year.

16 (D) NOTIFICATION OF TRANSFERS.—Not
17 later than 10 days after the last date in a fiscal
18 year on which funds of the Federal jurisdic-
19 tional agency may be transferred under sub-
20 paragraph (B)(5) with respect to an individual
21 decision, the agency shall submit to the appro-
22 priate committees of the House of Representa-
23 tives and the Senate written notification that
24 includes a description of—

25 (i) the decision;

1 (ii) the project study involved;

2 (iii) the amount of each transfer
3 under subparagraph (B) in that fiscal year
4 relating to the decision;

5 (iv) the total amount of all transfers
6 under subparagraph (B) in that fiscal year
7 relating to the decision; and

8 (v) the total amount of all transfers of
9 the agency under subparagraph (B) in that
10 fiscal year.

11 (E) NO FAULT OF AGENCY.—

12 (i) IN GENERAL.—A transfer of funds
13 under this paragraph shall not be made if
14 the applicable agency described in subpara-
15 graph (A) notifies, with a supporting ex-
16 planation, the Federal lead agency, cooper-
17 ating agencies, and project sponsor, as ap-
18 plicable, that—

19 (I) the agency has not received
20 necessary information or approvals
21 from another entity in a manner that
22 affects the ability of the agency to
23 meet any requirements under Federal,
24 State, or local law;

1 (II) significant new information,
2 including from public comments, or
3 circumstances, including a major
4 modification to an aspect of the
5 project, requires additional analysis
6 for the agency to make a decision on
7 the project application; or

8 (III) the agency lacks the finan-
9 cial resources to complete the review
10 under the scheduled timeframe, in-
11 cluding a description of the number of
12 full-time employees required to com-
13 plete the review, the amount of fund-
14 ing required to complete the review,
15 and a justification as to why not
16 enough funding is available to com-
17 plete the review by the deadline.

18 (ii) LACK OF FINANCIAL RE-
19 SOURCES.—If the agency provides notice
20 under clause (i)(III), the Inspector General
21 of the agency shall—

22 (I) conduct a financial audit to
23 review the notice; and

24 (II) not later than 90 days after
25 the date on which the review described

1 in subclause (I) is completed, submit
2 to the Committee on Natural Re-
3 sources of the House of Representa-
4 tives and the Committee on Energy
5 and Natural Resources of the Senate
6 the results of the audit conducted
7 under subclause (I).

8 (F) LIMITATION.—The Federal agency
9 from which funds are transferred pursuant to
10 this paragraph shall not reprogram funds to the
11 office of the head of the agency, or equivalent
12 office, to reimburse that office for the loss of
13 the funds.

14 (G) EFFECT OF PARAGRAPH.—Nothing in
15 this paragraph affects or limits the application
16 of, or obligation to comply with, any Federal,
17 State, local, or tribal law.

18 (j) MEMORANDUM OF AGREEMENTS FOR EARLY CO-
19 ORDINATION.—

20 (1) SENSE OF CONGRESS.—It is the sense of
21 Congress that—

22 (A) the Secretary and other Federal agen-
23 cies with relevant jurisdiction in the environ-
24 mental review process should cooperate with
25 each other, State and local agencies, and Indian

1 tribes on environmental review and Bureau of
2 Reclamation project delivery activities at the
3 earliest practicable time to avoid delays and du-
4 plication of effort later in the process, prevent
5 potential conflicts, and ensure that planning
6 and project development decisions reflect envi-
7 ronmental values; and

8 (B) the cooperation referred to in subpara-
9 graph (A) should include the development of
10 policies and the designation of staff that advise
11 planning agencies and project sponsors of stud-
12 ies or other information foreseeably required for
13 later Federal action and early consultation with
14 appropriate State and local agencies and Indian
15 tribes.

16 (2) TECHNICAL ASSISTANCE.—If requested at
17 any time by a State or project sponsor, the Sec-
18 retary and other Federal agencies with relevant ju-
19 risdiction in the environmental review process, shall,
20 to the maximum extent practicable and appropriate,
21 as determined by the agencies, provide technical as-
22 sistance to the State or project sponsor in carrying
23 out early coordination activities.

24 (3) MEMORANDUM OF AGENCY AGREEMENT.—
25 If requested at any time by a State or project spon-

1 sor, the Federal lead agency, in consultation with
2 other Federal agencies with relevant jurisdiction in
3 the environmental review process, may establish
4 memoranda of agreement with the project sponsor,
5 Indian tribes, State and local governments, and
6 other appropriate entities to carry out the early co-
7 ordination activities, including providing technical
8 assistance in identifying potential impacts and miti-
9 gation issues in an integrated fashion.

10 (k) LIMITATIONS.—Nothing in this section preempts
11 or interferes with—

12 (1) any obligation to comply with the provisions
13 of any Federal law, including—

14 (A) the National Environmental Policy Act
15 of 1969 (42 U.S.C. 4321 et seq.); and

16 (B) any other Federal environmental law;

17 (2) the reviewability of any final Federal agency
18 action in a court of the United States or in the court
19 of any State;

20 (3) any requirement for seeking, considering, or
21 responding to public comment; or

22 (4) any power, jurisdiction, responsibility, duty,
23 or authority that a Federal, State, or local govern-
24 mental agency, Indian tribe, or project sponsor has

1 with respect to carrying out a project or any other
2 provision of law applicable to projects.

3 (l) TIMING OF CLAIMS.—

4 (1) TIMING.—

5 (A) IN GENERAL.—Notwithstanding any
6 other provision of law, a claim arising under
7 Federal law seeking judicial review of a permit,
8 license, or other approval issued by a Federal
9 agency for a project study shall be barred un-
10 less the claim is filed not later than 3 years
11 after publication of a notice in the Federal Reg-
12 ister announcing that the permit, license, or
13 other approval is final pursuant to the law
14 under which the agency action is taken, unless
15 a shorter time is specified in the Federal law
16 that allows judicial review.

17 (B) APPLICABILITY.—Nothing in this sub-
18 section creates a right to judicial review or
19 places any limit on filing a claim that a person
20 has violated the terms of a permit, license, or
21 other approval.

22 (2) NEW INFORMATION.—

23 (A) IN GENERAL.—The Secretary shall
24 consider new information received after the
25 close of a comment period if the information

1 satisfies the requirements for a supplemental
2 environmental impact statement under title 40,
3 Code of Federal Regulations (including suc-
4 cessor regulations).

5 (B) SEPARATE ACTION.—The preparation
6 of a supplemental environmental impact state-
7 ment or other environmental document, if re-
8 quired under this section, shall be considered a
9 separate final agency action and the deadline
10 for filing a claim for judicial review of the ac-
11 tion shall be 3 years after the date of publica-
12 tion of a notice in the Federal Register an-
13 nouncing the action relating to such supple-
14 mental environmental impact statement or
15 other environmental document.

16 (m) CATEGORICAL EXCLUSIONS.—

17 (1) IN GENERAL.—Not later than 180 days
18 after the date of enactment of this Act, the Sec-
19 retary shall—

20 (A) survey the use by the Bureau of Rec-
21 lamation of categorical exclusions in projects
22 since 2005;

23 (B) publish a review of the survey that in-
24 cludes a description of—

1 (i) the types of actions that were cat-
2 egorically excluded or could be the basis
3 for developing a new categorical exclusion;
4 and

5 (ii) any requests previously received
6 by the Secretary for new categorical exclu-
7 sions; and

8 (C) solicit requests from other Federal
9 agencies and project sponsors for new categor-
10 ical exclusions.

11 (2) NEW CATEGORICAL EXCLUSIONS.—Not
12 later than 1 year after the date of enactment of this
13 Act, if the Secretary has identified a category of ac-
14 tivities that merit establishing a categorical exclusion
15 that did not exist on the day before the date of en-
16 actment this Act based on the review under para-
17 graph (1), the Secretary shall publish a notice of
18 proposed rulemaking to propose that new categorical
19 exclusion, to the extent that the categorical exclusion
20 meets the criteria for a categorical exclusion under
21 section 1508.4 of title 40, Code of Federal Regula-
22 tions (or successor regulation).

23 (n) REVIEW OF PROJECT ACCELERATION RE-
24 FORMS.—

1 (1) IN GENERAL.—The Comptroller General of
2 the United States shall—

3 (A) assess the reforms carried out under
4 this section; and

5 (B) not later than 5 years and not later
6 than 10 years after the date of enactment of
7 this Act, submit to the Committee on Natural
8 Resources of the House of Representatives and
9 the Committee on Energy and Natural Re-
10 sources of the Senate a report that describes
11 the results of the assessment.

12 (2) CONTENTS.—The reports under paragraph
13 (1) shall include an evaluation of impacts of the re-
14 forms carried out under this section on—

15 (A) project delivery;

16 (B) compliance with environmental laws;

17 and

18 (C) the environmental impact of projects.

19 (o) PERFORMANCE MEASUREMENT.—The Secretary
20 shall establish a program to measure and report on
21 progress made toward improving and expediting the plan-
22 ning and environmental review process.

23 (p) CATEGORICAL EXCLUSIONS IN EMERGENCIES.—
24 For the repair, reconstruction, or rehabilitation of a Bu-
25 reau of Reclamation surface water storage project that is

1 in operation or under construction when damaged by an
2 event or incident that results in a declaration by the Presi-
3 dent of a major disaster or emergency pursuant to the
4 Robert T. Stafford Disaster Relief and Emergency Assist-
5 ance Act (42 U.S.C. 5121 et seq.), the Secretary shall
6 treat such repair, reconstruction, or rehabilitation activity
7 as a class of action categorically excluded from the re-
8 quirements relating to environmental assessments or envi-
9 ronmental impact statements under section 1508.4 of title
10 40, Code of Federal Regulations (or successor regula-
11 tions), if the repair or reconstruction activity is—

12 (1) in the same location with the same capacity,
13 dimensions, and design as the original Bureau of
14 Reclamation surface water storage project as before
15 the declaration described in this section; and

16 (2) commenced within a 2-year period begin-
17 ning on the date of a declaration described in this
18 subsection.

19 **SEC. 806. ANNUAL REPORT TO CONGRESS.**

20 (a) IN GENERAL.—Not later than February 1 of each
21 year, the Secretary shall develop and submit to the Com-
22 mittee on Natural Resources of the House of Representa-
23 tives and the Committee on Energy and Natural Re-
24 sources of the Senate an annual report, to be entitled “Re-

1 port to Congress on Future Water Project Development”,
2 that identifies the following:

3 (1) PROJECT REPORTS.—Each project report
4 that meets the criteria established in subsection
5 (c)(1)(A).

6 (2) PROPOSED PROJECT STUDIES.—Any pro-
7 posed project study submitted to the Secretary by a
8 non-Federal interest pursuant to subsection (b) that
9 meets the criteria established in subsection
10 (c)(1)(A).

11 (3) PROPOSED MODIFICATIONS.—Any proposed
12 modification to an authorized water project or
13 project study that meets the criteria established in
14 subsection (c)(1)(A) that—

15 (A) is submitted to the Secretary by a non-
16 Federal interest pursuant to subsection (b); or

17 (B) is identified by the Secretary for au-
18 thorization.

19 (4) EXPEDITED COMPLETION OF REPORT AND
20 DETERMINATIONS.—Any project study that was ex-
21 pedited and any Secretarial determinations under
22 section 804.

23 (b) REQUESTS FOR PROPOSALS.—

24 (1) PUBLICATION.—Not later than May 1 of
25 each year, the Secretary shall publish in the Federal

1 Register a notice requesting proposals from non-
2 Federal interests for proposed project studies and
3 proposed modifications to authorized projects and
4 project studies to be included in the annual report.

5 (2) DEADLINE FOR REQUESTS.—The Secretary
6 shall include in each notice required by this sub-
7 section a requirement that non-Federal interests
8 submit to the Secretary any proposals described in
9 paragraph (1) by not later than 120 days after the
10 date of publication of the notice in the Federal Reg-
11 ister in order for the proposals to be considered for
12 inclusion in the annual report.

13 (3) NOTIFICATION.—On the date of publication
14 of each notice required by this subsection, the Sec-
15 retary shall—

16 (A) make the notice publicly available, in-
17 cluding on the Internet; and

18 (B) provide written notification of the pub-
19 lication to the Committee on Natural Resources
20 of the House of Representatives and the Com-
21 mittee on Energy and Natural Resources of the
22 Senate.

23 (c) CONTENTS.—

24 (1) PROJECT REPORTS, PROPOSED PROJECT
25 STUDIES, AND PROPOSED MODIFICATIONS.—

1 (A) CRITERIA FOR INCLUSION IN RE-
2 PORT.—The Secretary shall include in the an-
3 nual report only those project reports, proposed
4 project studies, and proposed modifications to
5 authorized projects and project studies that—

6 (i) are related to the missions and au-
7 thorities of the Bureau of Reclamation;

8 (ii) require specific congressional au-
9 thorization, including by an Act of Con-
10 gress;

11 (iii) have not been congressionally au-
12 thorized;

13 (iv) have not been included in any
14 previous annual report; and

15 (v) if authorized, could be carried out
16 by the Bureau of Reclamation.

17 (B) DESCRIPTION OF BENEFITS.—

18 (i) DESCRIPTION.—The Secretary
19 shall describe in the annual report, to the
20 extent applicable and practicable, for each
21 proposed project study and proposed modi-
22 fication to an authorized water resources
23 development project or project study in-
24 cluded in the annual report, the benefits,

1 as described in clause (ii), of each such
2 study or proposed modification.

3 (ii) BENEFITS.—The benefits (or ex-
4 pected benefits, in the case of a proposed
5 project study) described in this clause are
6 benefits to—

7 (I) the protection of human life
8 and property;

9 (II) improvement to domestic ir-
10 rigated water and power supplies;

11 (III) the national economy;

12 (IV) the environment; or

13 (V) the national security inter-
14 ests of the United States.

15 (C) IDENTIFICATION OF OTHER FAC-
16 TORS.—The Secretary shall identify in the an-
17 nual report, to the extent practicable—

18 (i) for each proposed project study in-
19 cluded in the annual report, the non-Fed-
20 eral interest that submitted the proposed
21 project study pursuant to subsection (b);
22 and

23 (ii) for each proposed project study
24 and proposed modification to a project or
25 project study included in the annual re-

1 port, whether the non-Federal interest has
2 demonstrated—

3 (I) that local support exists for
4 the proposed project study or pro-
5 posed modification to an authorized
6 project or project study (including the
7 surface water storage development
8 project that is the subject of the pro-
9 posed feasibility study or the proposed
10 modification to an authorized project
11 study); and

12 (II) the financial ability to pro-
13 vide the required non-Federal cost
14 share.

15 (2) TRANSPARENCY.—The Secretary shall in-
16 clude in the annual report, for each project report,
17 proposed project study, and proposed modification to
18 a project or project study included under paragraph
19 (1)(A)—

20 (A) the name of the associated non-Fed-
21 eral interest, including the name of any non-
22 Federal interest that has contributed, or is ex-
23 pected to contribute, a non-Federal share of the
24 cost of—

25 (i) the project report;

- 1 (ii) the proposed project study;
- 2 (iii) the authorized project study for
- 3 which the modification is proposed; or
- 4 (iv) construction of—
 - 5 (I) the project that is the subject
 - 6 of—
 - 7 (aa) the water report;
 - 8 (bb) the proposed project
 - 9 study; or
 - 10 (cc) the authorized project
 - 11 study for which a modification is
 - 12 proposed; or
 - 13 (II) the proposed modification to
 - 14 a project;
 - 15 (B) a letter or statement of support for the
 - 16 water report, proposed project study, or pro-
 - 17 posed modification to a project or project study
 - 18 from each associated non-Federal interest;
 - 19 (C) the purpose of the feasibility report,
 - 20 proposed feasibility study, or proposed modi-
 - 21 fication to a project or project study;
 - 22 (D) an estimate, to the extent practicable,
 - 23 of the Federal, non-Federal, and total costs
 - 24 of—

1 (i) the proposed modification to an
2 authorized project study; and

3 (ii) construction of—

4 (I) the project that is the subject
5 of—

6 (aa) the project report; or

7 (bb) the authorized project
8 study for which a modification is
9 proposed, with respect to the
10 change in costs resulting from
11 such modification; or

12 (II) the proposed modification to
13 an authorized project; and

14 (E) an estimate, to the extent practicable,
15 of the monetary and nonmonetary benefits of—

16 (i) the project that is the subject of—

17 (I) the project report; or

18 (II) the authorized project study
19 for which a modification is proposed,
20 with respect to the benefits of such
21 modification; or

22 (ii) the proposed modification to an
23 authorized project.

24 (3) CERTIFICATION.—The Secretary shall in-
25 clude in the annual report a certification stating

1 that each feasibility report, proposed feasibility
2 study, and proposed modification to a project or
3 project study included in the annual report meets
4 the criteria established in paragraph (1)(A).

5 (4) APPENDIX.—The Secretary shall include in
6 the annual report an appendix listing the proposals
7 submitted under subsection (b) that were not in-
8 cluded in the annual report under paragraph (1)(A)
9 and a description of why the Secretary determined
10 that those proposals did not meet the criteria for in-
11 clusion under such paragraph.

12 (d) SPECIAL RULE FOR INITIAL ANNUAL REPORT.—

13 Notwithstanding any other deadlines required by this sec-
14 tion, the Secretary shall—

15 (1) not later than 60 days after the date of en-
16 actment of this Act, publish in the Federal Register
17 a notice required by subsection (b)(1); and

18 (2) include in such notice a requirement that
19 non-Federal interests submit to the Secretary any
20 proposals described in subsection (b)(1) by not later
21 than 120 days after the date of publication of such
22 notice in the Federal Register in order for such pro-
23 posals to be considered for inclusion in the first an-
24 nual report developed by the Secretary under this
25 section.

1 (e) PUBLICATION.—Upon submission of an annual
 2 report to Congress, the Secretary shall make the annual
 3 report publicly available, including through publication on
 4 the Internet.

5 (f) DEFINITION.—In this section, the term “project
 6 report” means a final feasibility report developed under
 7 the Reclamation Act of 1902 (32 Stat. 388), and all Acts
 8 amendatory thereof or supplementary thereto.

9 **TITLE IX—ACCELERATED REV-**
 10 **ENUE, REPAYMENT, AND SUR-**
 11 **FACE WATER STORAGE EN-**
 12 **HANCEMENT**

13 **SEC. 901. SHORT TITLE.**

14 This title may be cited as the “Accelerated Revenue,
 15 Repayment, and Surface Water Storage Enhancement
 16 Act”.

17 **SEC. 902. PREPAYMENT OF CERTAIN REPAYMENT CON-**
 18 **TRACTS BETWEEN THE UNITED STATES AND**
 19 **CONTRACTORS OF FEDERALLY DEVELOPED**
 20 **WATER SUPPLIES.**

21 (a) CONVERSION AND PREPAYMENT OF CON-
 22 TRACTS.—

23 (1) CONVERSION.—Upon request of the con-
 24 tractor, the Secretary of the Interior shall convert
 25 any water service contract in effect on the date of

1 enactment of this Act and between the United
2 States and a water users' association to allow for
3 prepayment of the repayment contract pursuant to
4 paragraph (2) under mutually agreeable terms and
5 conditions. The manner of conversion under this
6 paragraph shall be as follows:

7 (A) Water service contracts that were en-
8 tered into under section 9(e) of the Act of Au-
9 gust 4, 1939 (53 Stat. 1196), to be converted
10 under this section shall be converted to repay-
11 ment contracts under section 9(d) of that Act
12 (53 Stat. 1195).

13 (B) Water service contracts that were en-
14 tered under subsection (c)(2) of section 9 of the
15 Act of August 4, 1939 (53 Stat. 1194), to be
16 converted under this section shall be converted
17 to a contract under subsection (c)(1) of section
18 9 of that Act (53 Stat. 1195).

19 (2) PREPAYMENT.—Except for those repayment
20 contracts under which the contractor has previously
21 negotiated for prepayment, all repayment contracts
22 under section 9(d) of that Act (53 Stat. 1195) in ef-
23 fect on the date of enactment of this Act at the re-
24 quest of the contractor, and all contracts converted
25 pursuant to paragraph (1)(A) shall—

1 (A) provide for the repayment, either in
2 lump sum or by accelerated prepayment, of the
3 remaining construction costs identified in water
4 project specific irrigation rate repayment sched-
5 ules, as adjusted to reflect payment not re-
6 flected in such schedule, and properly assign-
7 able for ultimate return by the contractor, or if
8 made in approximately equal installments, no
9 later than 3 years after the effective date of the
10 repayment contract, such amount to be dis-
11 counted by $\frac{1}{2}$ the Treasury rate. An estimate
12 of the remaining construction costs, as ad-
13 justed, shall be provided by the Secretary to the
14 contractor no later than 90 days following re-
15 ceipt of request of the contractor;

16 (B) require that construction costs or
17 other capitalized costs incurred after the effec-
18 tive date of the contract or not reflected in the
19 rate schedule referenced in subparagraph (A),
20 and properly assignable to such contractor shall
21 be repaid in not more than 5 years after notifi-
22 cation of the allocation if such amount is a re-
23 sult of a collective annual allocation of capital
24 costs to the contractors exercising contract con-
25 versation under this subsection of less than

1 \$5,000,000. If such amount is \$5,000,000 or
2 greater, such cost shall be repaid as provided by
3 applicable reclamation law;

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

8 (D) continue so long as the contractor
9 pays applicable charges, consistent with section
10 9(d) of the Act of August 4, 1939 (53 Stat.
11 1195), and applicable law.

12 (3) CONTRACT REQUIREMENTS.—Except for
13 those repayment contracts under which the con-
14 tractor has previously negotiated for prepayment,
15 the following shall apply with regard to all repay-
16 ment contracts under subsection (c)(1) of section 9
17 of that Act (53 Stat. 1195) in effect on the date of
18 enactment of this Act at the request of the con-
19 tractor, and all contracts converted pursuant to
20 paragraph (1)(B):

21 (A) Provide for the repayment in lump
22 sum of the remaining construction costs identi-
23 fied in water project specific municipal and in-
24 dustrial rate repayment schedules, as adjusted
25 to reflect payments not reflected in such sched-

1 ule, and properly assignable for ultimate return
2 by the contractor. An estimate of the remaining
3 construction costs, as adjusted, shall be pro-
4 vided by the Secretary to the contractor no
5 later than 90 days after receipt of request of
6 contractor.

7 (B) The contract shall require that con-
8 struction costs or other capitalized costs in-
9 curred after the effective date of the contract or
10 not reflected in the rate schedule referenced in
11 subparagraph (A), and properly assignable to
12 such contractor, shall be repaid in not more
13 than 5 years after notification of the allocation
14 if such amount is a result of a collective annual
15 allocation of capital costs to the contractors ex-
16 ercising contract conversation under this sub-
17 section of less than \$5,000,000. If such amount
18 is \$5,000,000 or greater, such cost shall be re-
19 paid as provided by applicable reclamation law.

20 (C) Continue so long as the contractor
21 pays applicable charges, consistent with section
22 9(c)(1) of the Act of August 4, 1939 (53 Stat.
23 1195), and applicable law.

24 (4) CONDITIONS.—All contracts entered into
25 pursuant to paragraphs (1), (2), and (3) shall—

1 (A) not be adjusted on the basis of the
2 type of prepayment financing used by the water
3 users' association;

4 (B) conform to any other agreements, such
5 as applicable settlement agreements and new
6 constructed appurtenant facilities; and

7 (C) not modify other water service, repay-
8 ment, exchange and transfer contractual rights
9 between the water users' association, and the
10 Bureau of Reclamation, or any rights, obliga-
11 tions, or relationships of the water users' asso-
12 ciation and their landowners as provided under
13 State law.

14 (b) ACCOUNTING.—The amounts paid pursuant to
15 subsection (a) shall be subject to adjustment following a
16 final cost allocation by the Secretary of the Interior. In
17 the event that the final cost allocation indicates that the
18 costs properly assignable to the contractor are greater
19 than what has been paid by the contractor, the contractor
20 shall be obligated to pay the remaining allocated costs.
21 The term of such additional repayment contract shall be
22 not less than one year and not more than 10 years, how-
23 ever, mutually agreeable provisions regarding the rate of
24 repayment of such amount may be developed by the par-
25 ties. In the event that the final cost allocation indicates

1 that the costs properly assignable to the contractor are
2 less than what the contractor has paid, the Secretary shall
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) EFFECT OF EXISTING LAW.—Upon a con-
7 tractor's compliance with and discharge of the obli-
8 gation of repayment of the construction costs pursu-
9 ant to a contract entered into pursuant to subsection
10 (a)(2)(A), subsections (a) and (b) of section 213 of
11 the Reclamation Reform Act of 1982 (96 Stat.
12 1269) shall apply to affected lands.

13 (2) EFFECT OF OTHER OBLIGATIONS.—The ob-
14 ligation of a contractor to repay construction costs
15 or other capitalized costs described in subsection
16 (a)(2)(B), (a)(3)(B), or (b) shall not affect a con-
17 tractor's status as having repaid all of the construc-
18 tion costs assignable to the contractor or the appli-
19 cability of subsections (a) and (b) of section 213 of
20 the Reclamation Reform Act of 1982 (96 Stat.
21 1269) once the amount required to be paid by the
22 contractor under the repayment contract entered
23 into pursuant to subsection (a)(2)(A) have been
24 paid.

1 (d) EFFECT ON EXISTING LAW NOT ALTERED.—Im-
2 plementation of the provisions of this title shall not alter—

3 (1) the repayment obligation of any water serv-
4 ice or repayment contractor receiving water from the
5 same water project, or shift any costs that would
6 otherwise have been properly assignable to the water
7 users' association identified in subsections (a)(1),
8 (a)(2), and (a)(3) absent this section, including op-
9 eration and maintenance costs, construction costs, or
10 other capitalized costs incurred after the date of the
11 enactment of this Act, or to other contractors; and

12 (2) specific requirements for the disposition of
13 amounts received as repayments by the Secretary
14 under the Act of June 17, 1902 (32 Stat. 388, chap-
15 ter 1093), and Acts supplemental to and amend-
16 atory of that Act (43 U.S.C. 371 et seq.).

17 (e) SURFACE WATER STORAGE ENHANCEMENT PRO-
18 GRAM.—

19 (1) IN GENERAL.—Except as provided in sub-
20 section (d)(2), three years following the date of en-
21 actment of this Act, 50 percent of receipts generated
22 from prepayment of contracts under this section be-
23 yond amounts necessary to cover the amount of re-
24 ceipts forgone from scheduled payments under cur-
25 rent law for the 10-year period following the date of

1 enactment of this Act shall be directed to the Rec-
2 lamation Surface Water Storage Account under
3 paragraph (2).

4 (2) SURFACE STORAGE ACCOUNT.—The Sec-
5 retary shall allocate amounts collected under para-
6 graph (1) into the “Reclamation Surface Storage
7 Account” to fund the construction of surface water
8 storage. The Secretary may also enter into coopera-
9 tive agreements with water users’ associations for
10 the construction of surface water storage and
11 amounts within the Surface Storage Account may be
12 used to fund such construction. Surface water stor-
13 age projects that are otherwise not federally author-
14 ized shall not be considered Federal facilities as a
15 result of any amounts allocated from the Surface
16 Storage Account for part or all of such facilities.

17 (3) REPAYMENT.—Amounts used for surface
18 water storage construction from the Account shall be
19 fully reimbursed to the Account consistent with the
20 requirements under Federal reclamation law (the
21 law (the Act of June 17, 1902 (32 Stat. 388, chap-
22 ter 1093))), and Acts supplemental to and amend-
23 atory of that Act (43 U.S.C. 371 et seq.) except that
24 all funds reimbursed shall be deposited in the Ac-
25 count established under paragraph (2).

1 (4) AVAILABILITY OF AMOUNTS.—Amounts de-
2 posited in the Account under this subsection shall—

3 (A) be made available in accordance with
4 this section, subject to appropriation; and

5 (B) be in addition to amounts appropriated
6 for such purposes under any other provision of
7 law.

8 (5) PURPOSES OF SURFACE WATER STORAGE.—
9 Construction of surface water storage under this sec-
10 tion shall be made for the following purposes:

11 (A) Increased municipal and industrial
12 water supply.

13 (B) Agricultural floodwater, erosion, and
14 sedimentation reduction.

15 (C) Agricultural drainage improvements.

16 (D) Agricultural irrigation.

17 (E) Increased recreation opportunities.

18 (F) Reduced adverse impacts to fish and
19 wildlife from water storage or diversion projects
20 within watersheds associated with water storage
21 projects funded under this section.

22 (G) Any other purposes consistent with
23 reclamation laws or other Federal law.

24 (f) DEFINITIONS.—For the purposes of this title, the
25 following definitions apply:

1 (1) ACCOUNT.—The term “Account” means the
2 Reclamation Surface Water Storage Account estab-
3 lished under subsection (e)(2).

4 (2) CONSTRUCTION.—The term “construction”
5 means the designing, materials engineering and test-
6 ing, surveying, and building of surface water storage
7 including additions to existing surface water storage
8 and construction of new surface water storage facili-
9 ties, exclusive of any Federal statutory or regulatory
10 obligations relating to any permit, review, approval,
11 or other such requirement.

12 (3) SURFACE WATER STORAGE.—The term
13 “surface water storage” means any federally owned
14 facility under the jurisdiction of the Bureau of Rec-
15 lamation or any non-Federal facility used for the
16 surface storage and supply of water resources.

17 (4) TREASURY RATE.—The term “Treasury
18 rate” means the 20-year Constant Maturity Treas-
19 ury (CMT) rate published by the United States De-
20 partment of the Treasury existing on the effective
21 date of the contract.

22 (5) WATER USERS’ ASSOCIATION.—The term
23 “water users’ association” means—

24 (A) an entity organized and recognized
25 under State laws that is eligible to enter into

1 contracts with reclamation to receive contract
 2 water for delivery to and users of the water and
 3 to pay applicable charges; and

4 (B) includes a variety of entities with dif-
 5 ferent names and differing functions, such as
 6 associations, conservatory district, irrigation
 7 district, municipality, and water project con-
 8 tract unit.

9 **TITLE X—SAFETY OF DAMS**

10 **SEC. 1001. AUTHORIZATION OF ADDITIONAL PROJECT BEN-** 11 **EFITS.**

12 The Reclamation Safety of Dams Act of 1978 is
 13 amended—

14 (1) in section 3, by striking “Construction” and
 15 inserting “Except as provided in section 5B, con-
 16 struction”; and

17 (2) by inserting after section 5A (43 U.S.C.
 18 509) the following:

19 **“SEC. 5B. AUTHORIZATION OF ADDITIONAL PROJECT BEN-** 20 **EFITS.**

21 “Notwithstanding section 3, if the Secretary deter-
 22 mines that additional project benefits, including but not
 23 limited to additional conservation storage capacity, are
 24 feasible and not inconsistent with the purposes of this Act,
 25 the Secretary is authorized to develop additional project

1 benefits through the construction of new or supplementary
2 works on a project in conjunction with the Secretary's ac-
3 tivities under section 2 of this Act and subject to the con-
4 ditions described in the feasibility study, provided—

5 “(1) the Secretary determines that developing
6 additional project benefits through the construction
7 of new or supplementary works on a project will pro-
8 mote more efficient management of water and
9 water-related facilities;

10 “(2) the feasibility study pertaining to addi-
11 tional project benefits has been authorized pursuant
12 to section 8 of the Federal Water Project Recreation
13 Act of 1965 (16 U.S.C. 4601–18); and

14 “(3) the costs associated with developing the
15 additional project benefits are agreed to in writing
16 between the Secretary and project proponents and
17 shall be allocated to the authorized purposes of the
18 structure and repaid consistent with all provisions of
19 Federal Reclamation law (the Act of June 17, 1902,
20 43 U.S.C. 371 et seq.) and Acts supplemental to
21 and amendatory of that Act.”.

1 **TITLE XI—WATER RIGHTS**
2 **PROTECTION**

3 **SEC. 1101. SHORT TITLE.**

4 This title may be cited as the “Water Rights Protec-
5 tion Act”.

6 **SEC. 1102. DEFINITION OF WATER RIGHT.**

7 In this title, the term “water right” means any sur-
8 face or groundwater right filed, permitted, certified, con-
9 firmed, decreed, adjudicated, or otherwise recognized by
10 a judicial proceeding or by the State in which the user
11 acquires possession of the water or puts the water to bene-
12 ficial use, including water rights for federally recognized
13 Indian tribes.

14 **SEC. 1103. TREATMENT OF WATER RIGHTS.**

15 The Secretary of the Interior and the Secretary of
16 Agriculture shall not—

17 (1) condition or withhold, in whole or in part,
18 the issuance, renewal, amendment, or extension of
19 any permit, approval, license, lease, allotment, ease-
20 ment, right-of-way, or other land use or occupancy
21 agreement on—

22 (A) limitation or encumbrance of any
23 water right, or the transfer of any water right
24 (including joint and sole ownership), directly or

1 indirectly to the United States or any other des-
2 ignee; or

3 (B) any other impairment of any water
4 right, in whole or in part, granted or otherwise
5 recognized under State law, by Federal or State
6 adjudication, decree, or other judgment, or pur-
7 suant to any interstate water compact;

8 (2) require any water user (including any feder-
9 ally recognized Indian tribe) to apply for or acquire
10 a water right in the name of the United States
11 under State law as a condition of the issuance, re-
12 newal, amendment, or extension of any permit, ap-
13 proval, license, lease, allotment, easement, right-of-
14 way, or other land use or occupancy agreement;

15 (3) assert jurisdiction over groundwater with-
16 drawals or impacts on groundwater resources, unless
17 jurisdiction is asserted, and any regulatory or policy
18 actions taken pursuant to such assertion are, con-
19 sistent with, and impose no greater restrictions or
20 regulatory requirements than, applicable State laws
21 (including regulations) and policies governing the
22 protection and use of groundwater resources; or

23 (4) infringe on the rights and obligations of a
24 State in evaluating, allocating, and adjudicating the
25 waters of the State originating on or under, or flow-

1 ing from, land owned or managed by the Federal
2 Government.

3 **SEC. 1104. RECOGNITION OF STATE AUTHORITY.**

4 (a) IN GENERAL.—In carrying out section 1103, the
5 Secretary of the Interior and the Secretary of Agriculture
6 shall—

7 (1) recognize the longstanding authority of the
8 States relating to evaluating, protecting, allocating,
9 regulating, and adjudicating groundwater by any
10 means, including a rulemaking, permitting, directive,
11 water court adjudication, resource management
12 planning, regional authority, or other policy; and

13 (2) coordinate with the States in the adoption
14 and implementation by the Secretary of the Interior
15 or the Secretary of Agriculture of any rulemaking,
16 policy, directive, management plan, or other similar
17 Federal action so as to ensure that such actions are
18 consistent with, and impose no greater restrictions
19 or regulatory requirements than, State groundwater
20 laws and programs.

21 (b) EFFECT ON STATE WATER RIGHTS.—In carrying
22 out this title, the Secretary of the Interior and the Sec-
23 retary of Agriculture shall not take any action that ad-
24 versely affects—

25 (1) any water rights granted by a State;

1 (2) the authority of a State in adjudicating
2 water rights;

3 (3) definitions established by a State with re-
4 spect to the term “beneficial use”, “priority of water
5 rights”, or “terms of use”;

6 (4) terms and conditions of groundwater with-
7 drawal, guidance and reporting procedures, and con-
8 servation and source protection measures established
9 by a State;

10 (5) the use of groundwater in accordance with
11 State law; or

12 (6) any other rights and obligations of a State
13 established under State law.

14 **SEC. 1105. EFFECT OF TITLE.**

15 (a) EFFECT ON EXISTING AUTHORITY.—Nothing in
16 this title limits or expands any existing legally recognized
17 authority of the Secretary of the Interior or the Secretary
18 of Agriculture to issue, grant, or condition any permit, ap-
19 proval, license, lease, allotment, easement, right-of-way, or
20 other land use or occupancy agreement on Federal land
21 subject to the jurisdiction of the Secretary of the Interior
22 or the Secretary of Agriculture, respectively.

23 (b) EFFECT ON RECLAMATION CONTRACTS.—Noth-
24 ing in this title interferes with Bureau of Reclamation con-
25 tracts entered into pursuant to the reclamation laws.

1 (c) EFFECT ON ENDANGERED SPECIES ACT.—Noth-
2 ing in this title affects the implementation of the Endan-
3 gered Species Act of 1973 (16 U.S.C. 1531 et seq.).

4 (d) EFFECT ON FEDERAL RESERVED WATER
5 RIGHTS.—Nothing in this title limits or expands any exist-
6 ing or claimed reserved water rights of the Federal Gov-
7 ernment on land administered by the Secretary of the In-
8 terior or the Secretary of Agriculture.

9 (e) EFFECT ON FEDERAL POWER ACT.—Nothing in
10 this title limits or expands authorities under sections 4(e),
11 10(j), or 18 of the Federal Power Act (16 U.S.C. 797(e),
12 803(j), 811).

13 (f) EFFECT ON INDIAN WATER RIGHTS.—Nothing in
14 this title limits or expands any water right or treaty right
15 of any federally recognized Indian tribe.

Passed the House of Representatives July 16, 2015.

Attest:

KAREN L. HAAS,

Clerk.