

PUBLIC LAW 114–322—DEC. 16, 2016

WATER INFRASTRUCTURE IMPROVEMENTS  
FOR THE NATION ACT

Public Law 114–322  
114th Congress

An Act

Dec. 16, 2016  
[S. 612]

Water  
Infrastructure  
Improvements  
for the Nation  
Act.  
33 USC 2201  
note.

To provide for improvements to the rivers and harbors of the United States, to provide for the conservation and development of water and related resources, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

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

(a) **SHORT TITLE.**—This Act may be cited as the “Water Infrastructure Improvements for the Nation Act” or the “WIIN Act”.

(b) **TABLE OF CONTENTS.**—

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## TITLE I—WATER RESOURCES DEVELOPMENT

Water Resources  
Development Act  
of 2016.  
33 USC 2201  
note.  
33 USC 2201  
note.

**SEC. 1001. SHORT TITLE.**

This title may be cited as the “Water Resources Development Act of 2016”.

**SEC. 1002. SECRETARY DEFINED.**

In this title, the term “Secretary” means the Secretary of the Army.

### Subtitle A—General Provisions

**SEC. 1101. YOUTH SERVICE AND CONSERVATION CORPS ORGANIZATIONS.**

Section 213 of the Water Resources Development Act of 2000 (33 U.S.C. 2339) is amended—

- (1) by redesignating subsection (c) as subsection (d); and
- (2) by inserting after subsection (b) the following:

“(c) YOUTH SERVICE AND CONSERVATION CORPS ORGANIZATIONS.—The Secretary, to the maximum extent practicable, shall enter into cooperative agreements with qualified youth service and conservation corps organizations for services relating to projects under the jurisdiction of the Secretary and shall do so in a manner that ensures the maximum participation and opportunities for such organizations.”.

**SEC. 1102. NAVIGATION SAFETY.**

33 USC 2232  
note.

The Secretary shall use section 5 of the Act of March 4, 1915 (38 Stat. 1053, chapter 142; 33 U.S.C. 562), to carry out navigation safety activities at those projects eligible for operation and maintenance under section 204(f) of the Water Resources Development Act of 1986 (33 U.S.C. 2232(f)).

**SEC. 1103. EMERGING HARBORS.**

Section 210 of the Water Resources Development Act of 1986 (33 U.S.C. 2238) is amended—

- (1) in subsection (c)(3) by striking “for each of fiscal years 2015 through 2022” and inserting “for each fiscal year”; and
- (2) by striking subsection (d)(1)(A) and inserting the following:

“(A) IN GENERAL.—For each fiscal year, if priority funds are available, the Secretary shall use at least 10 percent of such funds for emerging harbor projects.”.

**SEC. 1104. FEDERAL BREAKWATERS AND JETTIES.**

(a) IN GENERAL.—The Secretary, at Federal expense, shall establish an inventory and conduct an assessment of the general structural condition of all Federal breakwaters and jetties protecting harbors and inland harbors within the United States.

(b) CONTENTS.—The inventory and assessment carried out under subsection (a) shall include—

- (1) compiling location information for all Federal breakwaters and jetties protecting harbors and inland harbors within the United States;
- (2) determining the general structural condition of each breakwater and jetty;
- (3) analyzing the potential risks to navigational safety, and the impact on the periodic maintenance dredging needs of protected harbors and inland harbors, resulting from the general structural condition of each breakwater and jetty; and
- (4) estimating the costs, for each breakwater and jetty, to restore or maintain the breakwater or jetty to authorized levels and the total of all such costs.

(c) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the inventory and assessment carried out under subsection (a).

**SEC. 1105. REMOTE AND SUBSISTENCE HARBORS.**

Section 2006 of the Water Resources Development Act of 2007 (33 U.S.C. 2242) is amended—

- (1) in subsection (a)(3) by inserting “in which the project is located, or the long-term viability of a community that is located in the region that is served by the project and that will rely on the project,” after “community”; and
- (2) in subsection (b)—

(A) in paragraph (1) by inserting “and communities that are located in the region to be served by the project and that will rely on the project” after “community”;

(B) in paragraph (4) by striking “local population” and inserting “regional population to be served by the project”; and

(C) in paragraph (5) by striking “community” and inserting “local community and communities that are located in the region to be served by the project and that will rely on the project”.

33 USC 2326d.

#### **SEC. 1106. ALTERNATIVE PROJECTS TO MAINTENANCE DREDGING.**

The Secretary may enter into agreements to assume the operation and maintenance costs of an alternative project to maintenance dredging for a Federal navigation channel if the costs of the operation and maintenance of the alternative project, and any remaining costs necessary for maintaining the Federal navigation channel, are less than the costs of maintaining such channel without the alternative project.

#### **SEC. 1107. GREAT LAKES NAVIGATION SYSTEM.**

Section 210(d)(1)(B) of the Water Resources Development Act of 1986 (33 U.S.C. 2238(d)(1)(B)) is amended in the matter preceding clause (i) by striking “For each of fiscal years 2015 through 2024” and inserting “For each fiscal year”.

#### **SEC. 1108. FUNDING FOR HARBOR MAINTENANCE PROGRAMS.**

Section 2101 of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 2238b) is amended—

(1) in subsection (b)(1), in the matter preceding subparagraph (A), by striking “The target total” and inserting “Except as provided in subsection (c), the target total”;

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following:

“(c) EXCEPTION.—If the target total budget resources for a fiscal year described in subparagraphs (A) through (J) of subsection (b)(1) is lower than the target total budget resources for the previous fiscal year, the target total budget resources shall be adjusted to be equal to the lesser of—

“(1) 103 percent of the total budget resources appropriated for the previous fiscal year; or

“(2) 100 percent of the total amount of harbor maintenance taxes received in the previous fiscal year.”.

33 USC 2238d.

#### **SEC. 1109. MAINTENANCE OF HARBORS OF REFUGE.**

The Secretary is authorized to maintain federally authorized harbors of refuge to restore and maintain the authorized dimensions of the harbors.

#### **SEC. 1110. DONOR PORTS AND ENERGY TRANSFER PORTS.**

Section 2106 of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 2238c) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively;

(B) by inserting after paragraph (1) the following:



“(2) DISCRETIONARY CARGO.—The term ‘discretionary cargo’ means maritime cargo for which the United States port of unloading is different than the United States port of entry.”;

(C) in paragraph (3) (as redesignated)—

(i) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and indenting appropriately;

(ii) in the matter preceding clause (i) (as redesignated) by striking “The term” and inserting the following:

“(A) IN GENERAL.—The term”; and

(iii) by adding at the end the following:

“(B) CALCULATION.—For the purpose of calculating the percentage described in subparagraph (A)(iii), payments described under subsection (c)(1) shall not be included.”;

(D) in paragraph (5)(A) (as redesignated), by striking “Code of Federal Regulation” and inserting “Code of Federal Regulations”; and

(E) by adding at the end the following:

“(8) MEDIUM-SIZED DONOR PORT.—The term ‘medium-sized donor port’ means a port—

“(A) that is subject to the harbor maintenance fee under section 24.24 of title 19, Code of Federal Regulations (or a successor regulation);

“(B) at which the total amount of harbor maintenance taxes collected comprise annually more than \$5,000,000 but less than \$15,000,000 of the total funding of the Harbor Maintenance Trust Fund established under section 9505 of the Internal Revenue Code of 1986;

“(C) that received less than 25 percent of the total amount of harbor maintenance taxes collected at that port in the previous 5 fiscal years; and

“(D) that is located in a State in which more than 2,000,000 cargo containers were unloaded from or loaded onto vessels in fiscal year 2012.”;

(2) in subsection (b)—

(A) in paragraph (1), by striking “donor ports” and inserting “donor ports, medium-sized donor ports,”; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking “and” at the end; and

(ii) by striking subparagraph (B) and inserting the following:

“(B) shall be made available to a port as either a donor port, medium-sized donor port, or an energy transfer port, and no port may receive amounts from more than 1 designation; and

“(C) for donor ports and medium-sized donor ports—

“(i) 50 percent of the funds shall be equally divided between the eligible donor ports as authorized by this section; and

“(ii) 50 percent of the funds shall be divided between the eligible donor ports and eligible medium-sized donor ports based on the percentage of the total harbor maintenance tax revenues generated at each eligible donor port and medium-sized donor port.”;

(3) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking “donor port” and inserting “donor port, a medium-sized donor port,”; and

(B) in paragraph (1)—

(i) by striking “or shippers transporting cargo”;

(ii) by striking “U.S. Customs and Border Protection” and inserting “the Secretary”; and

(iii) by striking “amount of harbor maintenance taxes collected” and inserting “value of discretionary cargo”;

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

“(d) ADMINISTRATION OF PAYMENTS.—

“(1) IN GENERAL.—If a donor port, a medium-sized donor port, or an energy transfer port elects to provide payments to importers under subsection (c), the Secretary shall transfer to the Commissioner of U.S. Customs and Border Protection an amount equal to those payments that would otherwise be provided to the port under this section to provide the payments to the importers of the discretionary cargo that is—

“(A) shipped through the port; and

“(B) most at risk of diversion to seaports outside of the United States.

“(2) REQUIREMENT.—The Secretary, in consultation with a port electing to provide payments under subsection (c), shall determine the top importers at the port, as ranked by the value of discretionary cargo, and payments shall be limited to those top importers.”;

(5) in subsection (f)—

(A) in paragraph (1) by striking “2018” and inserting “2020”;

(B) by striking paragraph (2) and inserting the following:

“(2) DIVISION BETWEEN DONOR PORTS, MEDIUM-SIZED DONOR PORTS, AND ENERGY TRANSFER PORTS.—For each fiscal year, amounts made available to carry out this section shall be provided in equal amounts to—

“(A) donor ports and medium-sized donor ports; and

“(B) energy transfer ports.”; and

(C) in paragraph (3)—

(i) by striking “2015 through 2018” and inserting “2016 through 2020”; and

(ii) by striking “2019 through 2022” and inserting “2021 through 2025”; and

(6) by adding at the end the following:

“(g) SAVINGS CLAUSE.—Nothing in this section waives any statutory requirement related to the transportation of merchandise as authorized under chapter 551 of title 46, United States Code.”.

#### **SEC. 1111. HARBOR DEEPENING.**

Section 101(a)(1) of the Water Resources Development Act of 1986 (33 U.S.C. 2211(a)(1)) is amended—

(1) in the matter preceding subparagraph (A) by striking “the date of enactment of this Act” and inserting “the date of enactment of the Water Resources Reform and Development Act of 2014 (Public Law 113–121)”;

(2) in subparagraph (B) by striking “45 feet” and inserting “50 feet”; and

(3) in subparagraph (C) by striking “45 feet” and inserting “50 feet”.

**SEC. 1112. IMPLEMENTATION GUIDANCE.**

33 USC 2238  
note.

Section 2102 of the Water Resources Reform and Development Act of 2014 (Public Law 113–121; 128 Stat. 1273) is amended by adding at the end the following:

“(d) GUIDANCE.—Not later than 90 days after the date of enactment of the Water Resources Development Act of 2016, the Secretary shall publish on the website of the Corps of Engineers guidance on the implementation of this section and the amendments made by this section.”.

**SEC. 1113. NON-FEDERAL INTEREST DREDGING AUTHORITY.**

33 USC 2326e.

(a) IN GENERAL.—The Secretary may permit a non-Federal interest to carry out, for an authorized navigation project (or a separable element of an authorized navigation project), such maintenance activities as are necessary to ensure that the project is maintained to not less than the minimum project dimensions.

(b) COST LIMITATIONS.—Except as provided in this section and subject to the availability of appropriations, the costs incurred by a non-Federal interest in performing the maintenance activities described in subsection (a) shall be eligible for reimbursement, not to exceed an amount that is equal to the estimated Federal cost for the performance of the maintenance activities, with any reimbursement subject to the non-Federal interest complying with all Federal laws and regulations that would apply to such maintenance activities if carried out by the Secretary.

(c) AGREEMENT.—Before initiating maintenance activities under this section, a non-Federal interest shall enter into an agreement with the Secretary that specifies, for the performance of the maintenance activities, the terms and conditions that are acceptable to the non-Federal interest and the Secretary.

(d) PROVISION OF EQUIPMENT.—In carrying out maintenance activities under this section, a non-Federal interest shall—

(1) provide equipment at no cost to the Federal Government; and

(2) hold and save the United States free from any and all damage that arises from the use of the equipment of the non-Federal interest, except for damage due to the fault or negligence of a contractor of the Federal Government.

(e) REIMBURSEMENT ELIGIBILITY LIMITATIONS.—Costs that are eligible for reimbursement under this section are the costs of maintenance activities directly related to the costs associated with operation and maintenance of a dredge based on the lesser of—

(1) the costs associated with operation and maintenance of the dredge during the period of time that the dredge is being used in the performance of work for the Federal Government during a given fiscal year; or

(2) the actual fiscal year Federal appropriations that are made available for the portion of the maintenance activities for which the dredge was used.

(f) AUDIT.—Not earlier than 5 years after the date of enactment of this Act, the Secretary may conduct an audit on any maintenance activities for an authorized navigation project (or a separable element of an authorized navigation project) carried out under this section to determine if permitting a non-Federal interest to carry out maintenance activities under this section has resulted in—

- (1) improved reliability and safety for navigation; and
- (2) cost savings to the Federal Government.

(g) **TERMINATION OF AUTHORITY.**—The authority of the Secretary under this section terminates on the date that is 10 years after the date of enactment of this Act.

**SEC. 1114. TRANSPORTATION COST SAVINGS.**

Section 210(e)(3) of the Water Resources Development Act of 1986 (33 U.S.C. 2238(e)(3)) is amended—

- (1) by redesignating subparagraph (B) as subparagraph (C); and

- (2) by inserting after subparagraph (A) the following:

“(B) **ADDITIONAL REQUIREMENT.**—In the first report submitted under subparagraph (A) following the date of enactment of the Water Resources Development Act of 2016, the Secretary shall identify, to the maximum extent practicable, transportation cost savings realized by achieving and maintaining the constructed width and depth for the harbors and inland harbors referred to in subsection (a)(2), on a project-by-project basis.”.

**SEC. 1115. RESERVOIR SEDIMENT.**

(a) **IN GENERAL.**—Section 215 of the Water Resources Development Act of 2000 (33 U.S.C. 2326c) is amended to read as follows:

**“SEC. 215. RESERVOIR SEDIMENT.**

“(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of the Water Resources Development Act of 2016 and after providing public notice, the Secretary shall establish, using available funds, a pilot program to accept services provided by a non-Federal interest or commercial entity for removal of sediment captured behind a dam owned or operated by the United States and under the jurisdiction of the Secretary for the purpose of restoring the authorized storage capacity of the project concerned.

“(b) **REQUIREMENTS.**—In carrying out this section, the Secretary shall—

“(1) review the services of the non-Federal interest or commercial entity to ensure that the services are consistent with the authorized purposes of the project concerned;

“(2) ensure that the non-Federal interest or commercial entity will indemnify the United States for, or has entered into an agreement approved by the Secretary to address, any adverse impact to the dam as a result of such services;

“(3) require the non-Federal interest or commercial entity, prior to initiating the services and upon completion of the services, to conduct sediment surveys to determine the pre- and post-services sediment profile and sediment quality; and

“(4) limit the number of dams for which services are accepted to 10.

“(c) **LIMITATION.**—

“(1) **IN GENERAL.**—The Secretary may not accept services under subsection (a) if the Secretary, after consultation with the Chief of Engineers, determines that accepting the services is not advantageous to the United States.

“(2) **REPORT TO CONGRESS.**—If the Secretary makes a determination under paragraph (1), the Secretary shall provide to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment

and Public Works of the Senate written notice describing the reasoning for the determination.

“(d) DISPOSITION OF REMOVED SEDIMENT.—In exchange for providing services under subsection (a), a non-Federal interest or commercial entity is authorized to retain, use, recycle, sell, or otherwise dispose of any sediment removed in connection with the services and the Corps of Engineers may not seek any compensation for the value of the sediment.

“(e) CONGRESSIONAL NOTIFICATION.—Prior to accepting services provided by a non-Federal interest or commercial entity under this section, the Secretary shall provide to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate written notice of the acceptance of the services.

“(f) REPORT TO CONGRESS.—Upon completion of services at the 10 dams allowed under subsection (b)(4), the Secretary shall make publicly available and submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report documenting the results of the services.”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Water Resources Development Act of 2000 is amended by striking the item relating to section 215 and inserting the following:

“Sec. 215. Reservoir sediment.”.

#### **SEC. 1116. WATER SUPPLY CONSERVATION.**

(a) IN GENERAL.—In a State in which a drought emergency has been declared or was in effect during the 1-year period ending on the date of enactment of this Act, the Secretary is authorized—

(1) to conduct an evaluation for purposes of approving water supply conservation measures that are consistent with the authorized purposes of water resources development projects under the jurisdiction of the Secretary; and

(2) to enter into written agreements pursuant to section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b) with non-Federal interests to carry out the conservation measures approved by such evaluations.

(b) ELIGIBILITY.—Water supply conservation measures evaluated under subsection (a) may include the following:

(1) Stormwater capture.

(2) Releases for ground water replenishment or aquifer storage and recovery.

(3) Releases to augment water supply at another Federal or non-Federal storage facility.

(4) Other conservation measures that enhance usage of a Corps of Engineers project for water supply.

(c) COSTS.—A non-Federal interest shall pay only the separable costs associated with the evaluation, implementation, operation, and maintenance of an approved water supply conservation measure, which payments may be accepted and expended by the Corps of Engineers to cover such costs.

(d) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to modify or alter the obligations of a non-Federal interest under existing or future agreements for—

(1) water supply storage pursuant to section 301 of the Water Supply Act of 1958 (43 U.S.C. 390b); or

(2) surplus water use pursuant to section 6 of the Act of December 22, 1944 (58 Stat. 890, chapter 665; 33 U.S.C. 708).

(e) LIMITATIONS.—Nothing in this section—

(1) affects, modifies, or changes the authorized purposes of a Corps of Engineers project;

(2) affects existing Corps of Engineers authorities, including its authorities with respect to navigation, flood damage reduction, and environmental protection and restoration;

(3) affects the Corps of Engineers ability to provide for temporary deviations;

(4) affects the application of a cost-share requirement under section 101, 102, or 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2211, 2212, and 2213);

(5) supersedes or modifies any written agreement between the Federal Government and a non-Federal interest that is in effect on the date of enactment of this Act;

(6) supersedes or modifies any amendment to an existing multistate water control plan, including those water control plans along the Missouri River and those water control plans in the Apalachicola-Chattahoochee-Flint and Alabama-Coosa-Tallapoosa basins;

(7) affects any water right in existence on the date of enactment of this Act; or

(8) preempts or affects any State water law or interstate compact governing water.

#### **SEC. 1117. DROUGHT EMERGENCIES.**

(a) AUTHORIZED ACTIVITIES.—With respect to a State in which a drought emergency is in effect on the date of enactment of this Act, or was in effect at any time during the 1-year period ending on such date of enactment, and upon the request of the Governor of the State, the Secretary is authorized to—

(1) prioritize the updating of the water control manuals for control structures under the jurisdiction of the Secretary that are located in the State; and

(2) incorporate into the update seasonal operations for water conservation and water supply for such control structures.

(b) COORDINATION.—The Secretary shall carry out the update under subsection (a) in coordination with all appropriate Federal agencies, elected officials, and members of the public.

(c) STATUTORY CONSTRUCTION.—Nothing in this section affects, modifies, or changes the authorized purposes of a Corps of Engineers project, or affects the applicability of section 301 of the Water Supply Act of 1958 (43 U.S.C. 390b).

43 USC 390b–2.

#### **SEC. 1118. LEVERAGING FEDERAL INFRASTRUCTURE FOR INCREASED WATER SUPPLY.**

(a) IN GENERAL.—At the request of a non-Federal interest, the Secretary may review proposals to increase the quantity of available supplies of water at a Federal water resources development project through—

(1) modification of the project;

(2) modification of how the project is managed; or

(3) accessing water released from the project.

(b) PROPOSALS INCLUDED.—A proposal under subsection (a) may include—

- (1) increasing the storage capacity of the project;
  - (2) diversion of water released or withdrawn from the project—
    - (A) to recharge groundwater;
    - (B) to aquifer storage and recovery; or
    - (C) to any other storage facility;
  - (3) construction of facilities for delivery of water from pumping stations constructed by the Secretary;
  - (4) construction of facilities to access water; and
  - (5) a combination of the activities described in paragraphs (1) through (4).
- (c) EXCLUSIONS.—This section shall not apply to a proposal that—
- (1) reallocates existing water supply or hydropower storage;
- or
- (2) reduces water available for any authorized project purpose.
- (d) OTHER FEDERAL PROJECTS.—In any case in which a proposal relates to a Federal project that is not operated by the Secretary, this section shall apply only to activities under the authority of the Secretary.
- (e) REVIEW PROCESS.—
- (1) NOTICE.—On receipt of a proposal submitted under subsection (a), the Secretary shall provide a copy of the proposal to each entity described in paragraph (2) and, if applicable, the Federal agency that operates the project, in the case of a project operated by an agency other than the Department of the Army.
  - (2) PUBLIC PARTICIPATION.—In reviewing proposals submitted under subsection (a), and prior to making any decisions regarding a proposal, the Secretary shall comply with all applicable public participation requirements under law, including consultation with—
    - (A) affected States;
    - (B) power marketing administrations, in the case of reservoirs with Federal hydropower projects;
    - (C) entities responsible for operation and maintenance costs;
    - (D) any entity that has a contractual right from the Federal Government or a State to withdraw water from, or use storage at, the project;
    - (E) entities that the State determines hold rights under State law to the use of water from the project; and
    - (F) units of local government with flood risk reduction responsibilities downstream of the project.
- (f) AUTHORITIES.—A proposal submitted to the Secretary under subsection (a) may be reviewed and approved, if applicable and appropriate, under—
- (1) the specific authorization for the water resources development project;
  - (2) section 216 of the Flood Control Act of 1970 (33 U.S.C. 549a);
  - (3) section 301 of the Water Supply Act of 1958 (43 U.S.C. 390b); and
  - (4) section 14 of the Act of March 3, 1899 (30 Stat. 1152, chapter 425; 33 U.S.C. 408).

(g) LIMITATIONS.—The Secretary shall not approve a proposal submitted under subsection (a) that—

(1) is not supported by the Federal agency that operates the project, if that agency is not the Department of the Army;

(2) interferes with an authorized purpose of the project;

(3) adversely impacts contractual rights to water or storage at the reservoir;

(4) adversely impacts legal rights to water under State law, as determined by an affected State;

(5) increases costs for any entity other than the entity that submitted the proposal; or

(6) if a project is subject to section 301(e) of the Water Supply Act of 1958 (43 U.S.C. 390b(e)), makes modifications to the project that do not meet the requirements of that section unless the modification is submitted to and authorized by Congress.

(h) COST SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2), 100 percent of the cost of developing, reviewing, and implementing a proposal submitted under subsection (a) shall be provided by an entity other than the Federal Government.

(2) PLANNING ASSISTANCE TO STATES.—In the case of a proposal from an entity authorized to receive assistance under section 22 of the Water Resources Development Act of 1974 (42 U.S.C. 1962d-16), the Secretary may use funds available under that section to pay 50 percent of the cost of a review of a proposal submitted under subsection (a).

(3) OPERATION AND MAINTENANCE COSTS.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the operation and maintenance costs for the non-Federal sponsor of a proposal submitted under subsection (a) shall be 100 percent of the separable operation and maintenance costs associated with the costs of implementing the proposal.

(B) CERTAIN WATER SUPPLY STORAGE PROJECTS.—For a proposal submitted under subsection (a) for constructing additional water supply storage at a reservoir for use under a water supply storage agreement, in addition to the costs under subparagraph (A), the non-Federal costs shall include the proportional share of any joint-use costs for operation, maintenance, repair, replacement, or rehabilitation of the reservoir project determined in accordance with section 301 of the Water Supply Act of 1958 (43 U.S.C. 390b).

(C) VOLUNTARY CONTRIBUTIONS.—An entity other than an entity described in subparagraph (A) may voluntarily contribute to the costs of implementing a proposal submitted under subsection (a).

(i) CONTRIBUTED FUNDS.—The Secretary may receive and expend funds contributed by a non-Federal interest for the review and approval of a proposal submitted under subsection (a).

(j) ASSISTANCE.—On request by a non-Federal interest, the Secretary may provide technical assistance in the development or implementation of a proposal under subsection (a), including assistance in obtaining necessary permits for construction, if the non-Federal interest contracts with the Secretary to pay all costs of providing the technical assistance.



(k) **EXCLUSION.**—This section shall not apply to reservoirs in—

- (1) the Upper Missouri River;
- (2) the Apalachicola-Chattahoochee-Flint river system;
- (3) the Alabama-Coosa-Tallapoosa river system; and
- (4) the Stones River.

(l) **EFFECT OF SECTION.**—Nothing in this section affects or modifies any authority of the Secretary to review or modify reservoirs.

**SEC. 1119. INDIAN TRIBES.**

Section 1156 of the Water Resources Development Act of 1986 (33 U.S.C. 2310) is amended—

(1) in the section heading by inserting “**AND INDIAN TRIBES**” after “**TERRITORIES**”; and

(2) in subsection (a)—

(A) by striking “projects in American” and inserting “projects—

“(1) in American”;

(B) by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(2) for any Indian tribe (as defined in section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5130)).”.

**SEC. 1120. TRIBAL CONSULTATION REPORTS.**

(a) **REVIEW.**—The Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives the following:

(1) Not later than 30 days after the date of enactment of this Act, all reports of the Corps of Engineers developed pursuant to its Tribal Consultation Policy, dated November 2012, and submitted to the Office of Management and Budget before the date of enactment of this Act.

(2) Not later than 30 days after the date of the submission to the Committees under paragraph (1), all reports of the Corps of Engineers developed pursuant to its Tribal Consultation Policy, dated November 2012, or successor policy, and submitted to the Office of Management and Budget after the date of enactment of this Act.

(3) Not later than 1 year after the date of enactment of this Act, a report that describes the results of a review by the Secretary of existing policies, regulations, and guidance related to consultation with Indian tribes on water resources development projects or other activities that require the approval of, or the issuance of a permit by, the Secretary and that may have an impact on tribal cultural or natural resources.

(b) **CONSULTATION.**—In completing the review under subsection (a)(3), the Secretary shall provide for public and private meetings with Indian tribes and other stakeholders.

(c) **NO DELAYS.**—During the review required under subsection (a)(3), the Secretary shall ensure that—

(1) all existing tribal consultation policies, regulations, and guidance continue to be implemented; and

(2) the review does not affect an approval or issuance of a permit required by the Secretary.

**SEC. 1121. TRIBAL PARTNERSHIP PROGRAM.**

Section 203 of the Water Resources Development Act of 2000 (33 U.S.C. 2269) is amended—

(1) in subsection (b)—

(A) in paragraph (1), in the matter preceding subparagraph (A), by striking “the Secretary” and all that follows through “projects” and inserting “the Secretary may carry out water-related planning activities, or activities relating to the study, design, and construction of water resources development projects,”;

(B) in paragraph (2) by striking “(2) MATTERS TO BE STUDIED.—A study” and inserting the following:

“(2) AUTHORIZED ACTIVITIES.—An activity”; and

(C) by adding at the end the following:

“(3) FEASIBILITY STUDY AND REPORTS.—

“(A) IN GENERAL.—On the request of an Indian tribe, the Secretary shall conduct a study on, and provide to the Indian tribe a report describing, the feasibility of a water resources development project described in paragraph (1).

“(B) RECOMMENDATION.—A report under subparagraph (A) may, but shall not be required to, contain a recommendation on a specific water resources development project.

“(4) DESIGN AND CONSTRUCTION.—

“(A) IN GENERAL.—The Secretary may carry out the design and construction of a water resources development project described in paragraph (1) that the Secretary determines is feasible if the Federal share of the cost of the project is not more than \$10,000,000.

“(B) SPECIFIC AUTHORIZATION.—If the Federal share of the cost of a project described in subparagraph (A) is more than \$10,000,000, the Secretary may only carry out the project if Congress enacts a law authorizing the Secretary to carry out the project.”;

(2) in subsection (c)—

(A) in paragraph (1) by striking “studies” and inserting “an activity”; and

(B) in paragraph (2)(B) by striking “carrying out projects studied” and inserting “an activity conducted”; and

(3) in subsection (d)—

(A) in paragraph (1)(A) by striking “a study” and inserting “an activity conducted”; and

(B) by striking paragraph (2) and inserting the following:

“(2) CREDIT.—The Secretary may credit toward the non-Federal share of the costs of an activity conducted under subsection (b) the cost of services, studies, supplies, or other in-kind contributions provided by the non-Federal interest.

“(3) SOVEREIGN IMMUNITY.—The Secretary shall not require an Indian tribe to waive the sovereign immunity of the Indian tribe as a condition to entering into a cost-sharing agreement under this subsection.

“(4) WATER RESOURCES DEVELOPMENT PROJECTS.—

“(A) IN GENERAL.—The non-Federal share of costs for the study of a water resources development project described in subsection (b)(1) shall be 50 percent.

“(B) OTHER COSTS.—The non-Federal share of costs of design and construction of a project described in subparagraph (A) shall be assigned to the appropriate project purposes described in sections 101 and 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2211, 2213) and shared in the same percentages as the purposes to which the costs are assigned.

“(5) WATER-RELATED PLANNING ACTIVITIES.—

“(A) IN GENERAL.—The non-Federal share of costs of a watershed and river basin assessment conducted under subsection (b) shall be 25 percent.

“(B) OTHER COSTS.—The non-Federal share of costs of other water-related planning activities described in subsection (b)(1) shall be 50 percent.”.

**SEC. 1122. BENEFICIAL USE OF DREDGED MATERIAL.**

33 USC 2326  
note.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish a pilot program to carry out projects for the beneficial use of dredged material, including projects for the purposes of—

- (1) reducing storm damage to property and infrastructure;
- (2) promoting public safety;
- (3) protecting, restoring, and creating aquatic ecosystem habitats;
- (4) stabilizing stream systems and enhancing shorelines;
- (5) promoting recreation;
- (6) supporting risk management adaptation strategies; and
- (7) reducing the costs of dredging and dredged material placement or disposal, such as projects that use dredged material for—

- (A) construction or fill material;
- (B) civic improvement objectives; and
- (C) other innovative uses and placement alternatives that produce public economic or environmental benefits.

(b) PROJECT SELECTION.—In carrying out the pilot program, the Secretary shall—

- (1) identify for inclusion in the pilot program and carry out 10 projects for the beneficial use of dredged material;
- (2) consult with relevant State agencies in selecting projects; and
- (3) select projects solely on the basis of—
  - (A) the environmental, economic, and social benefits of the projects, including monetary and nonmonetary benefits; and
  - (B) the need for a diversity of project types and geographical project locations.

(c) REGIONAL BENEFICIAL USE TEAMS.—

(1) IN GENERAL.—In carrying out the pilot program, the Secretary shall establish regional beneficial use teams to identify and assist in the implementation of projects under the pilot program.

(2) COMPOSITION.—

(A) LEADERSHIP.—For each regional beneficial use team established under paragraph (1), the Secretary shall appoint the Commander of the relevant division of the Corps of Engineers to serve as the head of the team.

(B) MEMBERSHIP.—The membership of each regional beneficial use team shall include—

- (i) representatives of relevant Corps of Engineers districts and divisions;
- (ii) representatives of relevant State and local agencies; and
- (iii) representatives of Federal agencies and such other entities as the Secretary determines appropriate, consistent with the purposes of this section.

(d) CONSIDERATIONS.—The Secretary shall carry out the pilot program in a manner that—

- (1) maximizes the beneficial placement of dredged material from Federal and non-Federal navigation channels;
- (2) incorporates, to the maximum extent practicable, 2 or more Federal navigation, flood control, storm damage reduction, or environmental restoration projects;
- (3) coordinates the mobilization of dredges and related equipment, including through the use of such efficiencies in contracting and environmental permitting as can be implemented under existing laws and regulations;
- (4) fosters Federal, State, and local collaboration;
- (5) implements best practices to maximize the beneficial use of dredged sand and other sediments; and
- (6) ensures that the use of dredged material is consistent with all applicable environmental laws.

(e) COST SHARING.—

(1) IN GENERAL.—Projects carried out under this section shall be subject to the cost-sharing requirements applicable to projects carried out under section 204 of the Water Resources Development Act of 1992 (33 U.S.C. 2326).

(2) ADDITIONAL COSTS.—Notwithstanding paragraph (1), if the cost of transporting and depositing dredged material for a project carried out under this section exceeds the cost of carrying out those activities pursuant to any other water resources project in accordance, if applicable, with the Federal standard (as defined in section 335.7 of title 33, Code of Federal Regulations), the Secretary may not require the non-Federal interest to bear the additional cost of such activities.

(f) REPORT.—Not later than 2 years after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that includes—

- (1) a description of the projects selected to be carried out under the pilot program;
- (2) documentation supporting each of the projects selected;
- (3) the findings of regional beneficial use teams regarding project selection; and
- (4) any recommendations of the Secretary or regional beneficial use teams with respect to the pilot program.

(g) TERMINATION.—The pilot program shall terminate after completion of the 10 projects carried out pursuant to subsection (b)(1).

(h) EXEMPTION FROM OTHER STANDARDS.—The projects carried out under this section shall be carried out notwithstanding the definition of the term “Federal standard” in section 335.7 of title 33, Code of Federal Regulations.

(i) **REGIONAL SEDIMENT MANAGEMENT.**—Section 204 of the Water Resources Development Act of 1992 (33 U.S.C. 2326) is amended—

(1) in subsection (a)(1)—

(A) by striking “For sediment” and inserting the following:

“(A) SEDIMENT FROM FEDERAL WATER RESOURCES PROJECTS.—For sediment”; and

(B) by adding at the end the following:

“(B) SEDIMENT FROM OTHER FEDERAL SOURCES AND NON-FEDERAL SOURCES.—For purposes of projects carried out under this section, the Secretary may include sediment from other Federal sources and non-Federal sources, subject to the requirement that any sediment obtained from a non-Federal source shall not be obtained at Federal expense.”; and

(2) in subsection (d) by adding at the end the following:

“(3) SPECIAL RULE.—Disposal of dredged material under this subsection may include a single or periodic application of sediment for beneficial use and shall not require operation and maintenance.

“(4) DISPOSAL AT NON-FEDERAL COST.—The Secretary may accept funds from a non-Federal interest to dispose of dredged material as provided under section 103(d)(1) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(d)(1)).”.

(j) **CLARIFICATION.**—Section 156(e) of the Water Resources Development Act of 1976 (42 U.S.C. 1962d–5f(e)) is amended by striking “3” and inserting “6”.

**SEC. 1123. GREAT LAKES FISHERY AND ECOSYSTEM RESTORATION.**

Section 506(g) of the Water Resources Development Act of 2000 (42 U.S.C. 1962d–22(g)) is repealed.

**SEC. 1124. CORPS OF ENGINEERS OPERATION OF UNMANNED AIRCRAFT SYSTEMS.**

33 USC 576c.

(a) **IN GENERAL.**—The Secretary shall designate an individual, within the headquarters office of the Corps of Engineers, who shall serve as the coordinator and principal approving official for developing the process and procedures by which the Corps of Engineers—

(1) operates and maintains small unmanned aircraft (as defined in section 331 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 40101 note)) systems in support of civil works and emergency response missions of the Corps of Engineers; and

(2) acquires, applies for, and receives any necessary Federal Aviation Administration authorizations for such operations and systems.

(b) **REQUIREMENTS.**—A small unmanned aircraft system acquired, operated, or maintained for carrying out the missions specified in subsection (a) shall be operated in accordance with regulations of the Federal Aviation Administration as a civil aircraft or public aircraft, at the discretion of the Secretary, and shall be exempt from regulations of the Department of Defense, including the Department of the Army, governing such system.

(c) **LIMITATION.**—A small unmanned aircraft system acquired, operated, or maintained by the Corps of Engineers is excluded from use by the Department of Defense, including the Department

of the Army, for any mission of the Department of Defense other than a mission specified in subsection (a).

**SEC. 1125. FUNDING TO PROCESS PERMITS.**

Section 214(a) of the Water Resources Development Act of 2000 (33 U.S.C. 2352(a)) is amended—

(1) in paragraph (1) by adding at the end the following:

“(C) RAILROAD CARRIER.—The term ‘railroad carrier’ has the meaning given the term in section 20102 of title 49, United States Code.”;

(2) in paragraph (2)—

(A) by striking “or natural gas company” and inserting “, natural gas company, or railroad carrier”; and

(B) by striking “or company” and inserting “, company, or carrier”;

(3) in paragraph (3)—

(A) by striking “or natural gas company” and inserting “, natural gas company, or railroad carrier”; and

(B) by striking “7 years” and inserting “10 years”; and

(4) in paragraph (5) by striking “and natural gas companies” and inserting “, natural gas companies, and railroad carriers, including an evaluation of the compliance with the requirements of this section and, with respect to a permit for those entities, the requirements of applicable Federal laws”.

**SEC. 1126. STUDY OF WATER RESOURCES DEVELOPMENT PROJECTS BY NON-FEDERAL INTERESTS.**

Section 203 of the Water Resources Development Act of 1986 (33 U.S.C. 2231) is amended by adding at the end the following:

“(e) TECHNICAL ASSISTANCE.—At the request of a non-Federal interest, the Secretary may provide to the non-Federal interest technical assistance relating to any aspect of a feasibility study if the non-Federal interest contracts with the Secretary to pay all costs of providing such technical assistance.”.

**SEC. 1127. NON-FEDERAL CONSTRUCTION OF AUTHORIZED FLOOD DAMAGE REDUCTION PROJECTS.**

Section 204(d) of the Water Resources Development Act of 1986 (33 U.S.C. 2232(d)) is amended by adding at the end the following:

“(5) DISCRETE SEGMENTS.—

“(A) IN GENERAL.—The Secretary may authorize credit or reimbursement under this subsection for a discrete segment of a flood damage reduction project, or separable element thereof, before final completion of the project or separable element if—

“(i) except as provided in clause (ii), the Secretary determines that the discrete segment satisfies the requirements of paragraphs (1) through (4) in the same manner as the project or separable element; and

“(ii) notwithstanding paragraph (1)(A)(ii), the Secretary determines, before the approval of the plans under paragraph (1)(A)(i), that the discrete segment is technically feasible and environmentally acceptable.

“(B) DETERMINATION.—Credit or reimbursement may not be made available to a non-Federal interest pursuant to this paragraph until the Secretary determines that—

“(i) the construction of the discrete segment for which credit or reimbursement is requested is complete; and

“(ii) the construction is consistent with the authorization of the applicable flood damage reduction project, or separable element thereof, and the plans approved under paragraph (1)(A)(i).

“(C) WRITTEN AGREEMENT.—

“(i) IN GENERAL.—As part of the written agreement required under paragraph (1)(A)(iii), a non-Federal interest to be eligible for credit or reimbursement under this paragraph shall—

“(I) identify any discrete segment that the non-Federal interest may carry out; and

“(II) agree to the completion of the flood damage reduction project, or separable element thereof, with respect to which the discrete segment is a part and establish a timeframe for such completion.

“(ii) REMITTANCE.—If a non-Federal interest fails to complete a flood damage reduction project, or separable element thereof, that it agreed to complete under clause (i)(II), the non-Federal interest shall remit any reimbursements received under this paragraph for a discrete segment of such project or separable element.

“(D) DISCRETE SEGMENT DEFINED.—In this paragraph, the term ‘discrete segment’ means a physical portion of a flood damage reduction project, or separable element thereof—

“(i) described by a non-Federal interest in a written agreement required under paragraph (1)(A)(iii); and

“(ii) that the non-Federal interest can operate and maintain, independently and without creating a hazard, in advance of final completion of the flood damage reduction project, or separable element thereof.”.

#### SEC. 1128. MULTISTATE ACTIVITIES.

Section 22 of the Water Resources Development Act of 1974 (42 U.S.C. 1962d–16) is amended—

(1) in subsection (a)(1)—

(A) by striking “or other non-Federal interest” and inserting “, group of States, or non-Federal interest”;

(B) by inserting “or group of States” after “working with a State”; and

(C) by inserting “or group of States” after “boundaries of such State”; and

(2) in subsection (c)(1) by adding at the end the following:

“The Secretary may allow 2 or more States to combine all or a portion of the funds that the Secretary makes available to the States in carrying out subsection (a)(1).”.

#### SEC. 1129. PLANNING ASSISTANCE TO STATES.

Section 22 of the Water Resources Development Act of 1974 (42 U.S.C. 1962d–16) is amended by adding at the end the following:

“(f) SPECIAL RULE.—The cost-share for assistance under this section provided to Indian tribes, the Commonwealth of Puerto

Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands shall be as provided under section 1156 of the Water Resources Development Act of 1986 (33 U.S.C. 2310).”.

**SEC. 1130. REGIONAL PARTICIPATION ASSURANCE FOR LEVEE SAFETY ACTIVITIES.**

(a) **NATIONAL LEVEE SAFETY PROGRAM.**—Section 9002 of the Water Resources Development Act of 2007 (33 U.S.C. 3301) is amended—

(1) in paragraph (11) by striking “State or Indian tribe” and inserting “State, regional district, or Indian tribe”;

(2) by redesignating paragraphs (12) through (16) as paragraphs (13) through (17), respectively; and

(3) by inserting after paragraph (11) the following:

“(12) **REGIONAL DISTRICT.**—The term ‘regional district’ means a subdivision of a State government, or a subdivision of multiple State governments, that is authorized to acquire, construct, operate, and maintain projects for the purpose of flood damage reduction.”.

(b) **INVENTORY AND INSPECTION OF LEVEES.**—Section 9004 of the Water Resources Development Act of 2007 (33 U.S.C. 3303) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking “one year after the date of enactment of this Act” and inserting “1 year after the date of enactment of the Water Resources Development Act of 2016”;

(B) in paragraph (2)(A) by striking “States, Indian tribes, Federal agencies, and other entities” and inserting “States, regional districts, Indian tribes, Federal agencies, and other entities”; and

(C) in paragraph (3)—

(i) in the heading for subparagraph (A) by striking “FEDERAL, STATE, AND LOCAL” and inserting “FEDERAL, STATE, REGIONAL, TRIBAL, AND LOCAL”; and

(ii) in subparagraph (A) by striking “Federal, State, and local” and inserting “Federal, State, regional, tribal, and local”; and

(2) in subsection (c)—

(A) in paragraph (4)—

(i) in the paragraph heading by striking “STATE AND TRIBAL” and inserting “STATE, REGIONAL, AND TRIBAL”; and

(ii) by striking “State or Indian tribe” each place it appears and inserting “State, regional district, or Indian tribe”; and

(B) in paragraph (5)—

(i) by striking “State or Indian tribe” and inserting “State, regional district, or Indian tribe”; and

(ii) by striking “chief executive of the tribal government” and inserting “chief executive of the regional district or tribal government”.

(c) **LEVEE SAFETY INITIATIVE.**—Section 9005 of the Water Resources Development Act of 2007 (33 U.S.C. 3303a) is amended—

(1) in subsection (c)—

(A) in paragraph (1)—



- (i) in the matter preceding subparagraph (A)—
  - (I) by striking “1 year after the date of enactment of this subsection” and inserting “1 year after the date of enactment of the Water Resources Development Act of 2016”; and
  - (II) by striking “State, local, and tribal governments and organizations” and inserting “State, regional, local, and tribal governments and organizations”; and
- (ii) in subparagraph (A) by striking “Federal, State, tribal, and local agencies” and inserting “Federal, State, regional, local, and tribal agencies”;
- (B) in paragraph (3)—
  - (i) in subparagraph (A) by striking “State, local, and tribal governments,” and inserting “State, regional, local, and tribal governments”; and
  - (ii) in subparagraph (B) by inserting “, regional, or tribal” after “State” each place it appears; and
- (C) in paragraph (5)(A) by striking “States, non-Federal interests, and other appropriate stakeholders” and inserting “States, regional districts, Indian tribes, non-Federal interests, and other appropriate stakeholders”;
- (2) in subsection (e)(1) in the matter preceding subparagraph (A) by striking “States, communities, and levee owners” and inserting “States, regional districts, Indian tribes, communities, and levee owners”;
- (3) in subsection (g)—
  - (A) in the subsection heading by striking “STATE AND TRIBAL” and inserting “STATE, REGIONAL, AND TRIBAL”;
  - (B) in paragraph (1)—
    - (i) in subparagraph (A)—
      - (I) by striking “1 year after the date of enactment of this subsection” and inserting “1 year after the date of enactment of the Water Resources Development Act of 2016”; and
      - (II) by striking “State or tribal” and inserting “State, regional, or tribal”; and
    - (ii) in subparagraph (B)—
      - (I) by striking “State and Indian tribe” and inserting “State, regional district, and Indian tribe”; and
      - (II) by striking “State or Indian tribe” and inserting “State, regional district, or Indian tribe”; and
  - (C) in paragraph (2)—
    - (i) in the paragraph heading by striking “STATES” and inserting “STATES, REGIONAL DISTRICTS, AND INDIAN TRIBES”;
    - (ii) in subparagraph (A) by striking “States and Indian tribes” and inserting “States, regional districts, and Indian tribes”;
    - (iii) in subparagraph (B)—
      - (I) in the matter preceding clause (i) by striking “State or Indian tribe” and inserting “State, regional district, or Indian tribe”;

(II) in clause (ii) by striking “levees within the State” and inserting “levees within the State or regional district”; and

(III) in clause (iii) by striking “State or Indian tribe” and inserting “State, regional district, or Indian tribe”;

(iv) in subparagraph (C)(ii) in the matter preceding subclause (I) by striking “State or tribal” and inserting “State, regional, or tribal”; and

(v) in subparagraph (E)—

(I) by striking “States and Indian tribes” each place it appears and inserting “States, regional districts, and Indian tribes”;

(II) in clause (ii)(II)—

(aa) in the matter preceding item (aa) by striking “State or Indian tribe” and inserting “State, regional district, or Indian tribe”;

(bb) in item (aa) by striking “miles of levees in the State” and inserting “miles of levees in the State or regional district”; and

(cc) in item (bb) by striking “miles of levees in all States” and inserting “miles of levees in all States and regional districts”; and

(III) in clause (iii)—

(aa) by striking “State or Indian tribe” and inserting “State, regional district, or Indian tribe”; and

(bb) by striking “State or tribal” and inserting “State, regional, or tribal”; and

(4) in subsection (h)—

(A) in paragraph (1) by striking “States, Indian tribes, and local governments” and inserting “States, regional districts, Indian tribes, and local governments”;

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A) by striking “State, Indian tribe, or local government” and inserting “State, regional district, Indian tribe, or local government”; and

(ii) in subparagraph (E) in the matter preceding clause (i) by striking “State or tribal” and inserting “State, regional, or tribal”;

(C) in paragraph (3)—

(i) in subparagraph (A) by striking “State, Indian tribe, or local government” and inserting “State, regional district, Indian tribe, or local government”; and

(ii) in subparagraph (D) by striking “180 days after the date of enactment of this subsection” and inserting “180 days after the date of enactment of the Water Resources Development Act of 2016”; and

(D) in paragraph (4)(A)(i) by striking “State or tribal” and inserting “State, regional, or tribal”.

(d) REPORTS.—Section 9006 of the Water Resources Development Act of 2007 (33 U.S.C. 3303b) is amended—

(1) in subsection (a)(1)—

(A) in the matter preceding subparagraph (A) by striking “1 year after the date of enactment of this subsection” and inserting “1 year after the date of enactment of the Water Resources Development Act of 2016”; and

(B) in subparagraph (B) by striking “State and tribal” and inserting “State, regional, and tribal”;

(2) in subsection (c)—

(A) in the matter preceding paragraph (1)—

(i) by striking “2 years after the date of enactment of this subsection” and inserting “2 years after the date of enactment of the Water Resources Development Act of 2016”; and

(ii) by striking “State, tribal, and local” and inserting “State, regional, tribal, and local”;

(B) in paragraph (2) by striking “State and tribal” and inserting “State, regional, and tribal”; and

(C) in paragraph (4) by striking “State and local” and inserting “State, regional, tribal, and local”; and

(3) in subsection (d)—

(A) in the matter preceding paragraph (1) by striking “1 year after the date of enactment of this subsection” and inserting “1 year after the date of enactment of the Water Resources Development Act of 2016”; and

(B) in paragraph (2) by striking “State or tribal” and inserting “State, regional, or tribal”.

#### **SEC. 1131. PARTICIPATION OF NON-FEDERAL INTERESTS.**

Section 221(b)(1) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(b)(1)) is amended by inserting “and, as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602), a Native village, Regional Corporation, and Village Corporation” after “Indian tribe”.

#### **SEC. 1132. POST-AUTHORIZATION CHANGE REPORTS.**

33 USC 2282e.

(a) **IN GENERAL.**—The completion of a post-authorization change report prepared by the Corps of Engineers for a water resources development project—

(1) may not be delayed as a result of consideration being given to changes in policy or priority with respect to project consideration; and

(2) shall be submitted, upon completion, to—

(A) the Committee on Environment and Public Works of the Senate; and

(B) the Committee on Transportation and Infrastructure of the House of Representatives.

(b) **COMPLETION REVIEW.**—With respect to a post-authorization change report subject to review by the Secretary, the Secretary shall, not later than 120 days after the date of completion of such report—

(1) review the report; and

(2) provide to Congress any recommendations of the Secretary regarding modification of the applicable water resources development project.

(c) **PRIOR REPORTS.**—Not later than 120 days after the date of enactment of this Act, with respect to any post-authorization change report that was completed prior to the date of enactment of this Act and is subject to a review by the Secretary that has

yet to be completed, the Secretary shall complete review of, and provide recommendations to Congress with respect to, the report.

(d) POST-AUTHORIZATION CHANGE REPORT INCLUSIONS.—In this section, the term “post-authorization change report” includes—

- (1) a general reevaluation report;
- (2) a limited reevaluation report; and
- (3) any other report that recommends the modification of an authorized water resources development project.

33 USC 2326f.

**SEC. 1133. MAINTENANCE DREDGING DATA.**

(a) IN GENERAL.—The Secretary shall establish, maintain, and make publicly available a database on maintenance dredging carried out by the Secretary, which shall include information on maintenance dredging carried out by Federal and non-Federal vessels.

(b) SCOPE.—The Secretary shall include in the database maintained under subsection (a), for each maintenance dredging project and contract, estimated and actual data on—

- (1) the volume of dredged material removed;
- (2) the initial cost estimate of the Corps of Engineers;
- (3) the total cost;
- (4) the party and vessel carrying out the work; and
- (5) the number of private contractor bids received and the bid amounts, including bids that did not win the final contract award.

**SEC. 1134. ELECTRONIC SUBMISSION AND TRACKING OF PERMIT APPLICATIONS.**

(a) IN GENERAL.—Section 2040 of the Water Resources Development Act of 2007 (33 U.S.C. 2345) is amended to read as follows:

**“SEC. 2040. ELECTRONIC SUBMISSION AND TRACKING OF PERMIT APPLICATIONS.**

“(a) DEVELOPMENT OF ELECTRONIC SYSTEM.—

“(1) IN GENERAL.—The Secretary shall research, develop, and implement an electronic system to allow the electronic preparation and submission of applications for permits and requests for jurisdictional determinations under the jurisdiction of the Secretary.

“(2) INCLUSION.—The electronic system required under paragraph (1) shall address—

- “(A) applications for standard individual permits;
- “(B) applications for letters of permission;
- “(C) joint applications with States for State and Federal permits;
- “(D) applications for emergency permits;
- “(E) applications or requests for jurisdictional determinations; and
- “(F) preconstruction notification submissions, when required for a nationwide or other general permit.

“(3) IMPROVING EXISTING DATA SYSTEMS.—The Secretary shall seek to incorporate the electronic system required under paragraph (1) into existing systems and databases of the Corps of Engineers to the maximum extent practicable.

“(4) PROTECTION OF INFORMATION.—The electronic system required under paragraph (1) shall provide for the protection of personal, private, privileged, confidential, and proprietary information, and information the disclosure of which is otherwise prohibited by law.

“(b) **SYSTEM REQUIREMENTS.**—The electronic system required under subsection (a) shall—

“(1) enable an applicant or requester to prepare electronically an application for a permit or request;

“(2) enable an applicant or requester to submit to the Secretary, by email or other means through the Internet, the completed application form or request;

“(3) enable an applicant or requester to submit to the Secretary, by email or other means through the Internet, data and other information in support of the permit application or request;

“(4) provide an online interactive guide to provide assistance to an applicant or requester at any time while filling out the permit application or request; and

“(5) enable an applicant or requester (or a designated agent) to track the status of a permit application or request in a manner that will—

“(A) allow the applicant or requester to determine whether the application is pending or final and the disposition of the request;

“(B) allow the applicant or requester to research previously submitted permit applications and requests within a given geographic area and the results of such applications or requests; and

“(C) allow identification and display of the location of the activities subject to a permit or request through a map-based interface.

“(c) **DOCUMENTATION.**—All permit decisions and jurisdictional determinations made by the Secretary shall be in writing and include documentation supporting the basis for the decision or determination. The Secretary shall prescribe means for documenting all decisions or determinations to be made by the Secretary.

“(d) **RECORD OF DETERMINATIONS.**—

“(1) **IN GENERAL.**—The Secretary shall maintain, for a minimum of 5 years, a record of each permit decision and jurisdictional determination made by the Secretary, including documentation supporting the basis of the decision or determination.

“(2) **ARCHIVING OF INFORMATION.**—The Secretary shall explore and implement an appropriate mechanism for archiving records of permit decisions and jurisdictional determinations, including documentation supporting the basis of the decisions and determinations, after the 5-year maintenance period described in paragraph (1).

“(e) **AVAILABILITY OF DETERMINATIONS.**—

“(1) **IN GENERAL.**—The Secretary shall make the records of all permit decisions and jurisdictional determinations made by the Secretary available to the public for review and reproduction.

“(2) **PROTECTION OF INFORMATION.**—The Secretary shall provide for the protection of personal, private, privileged, confidential, and proprietary information, and information the disclosure of which is prohibited by law, which may be excluded from disclosure.

“(f) **DEADLINE FOR ELECTRONIC SYSTEM IMPLEMENTATION.**—

“(1) **IN GENERAL.**—The Secretary shall develop and implement, to the maximum extent practicable, the electronic system required under subsection (a) not later than 2 years after

the date of enactment of the Water Resources Development Act of 2016.

“(2) REPORT ON ELECTRONIC SYSTEM IMPLEMENTATION.—Not later than 180 days after the expiration of the deadline under paragraph (1), the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report describing the measures implemented and barriers faced in carrying out this section.

“(g) APPLICABILITY.—The requirements described in subsections (c), (d), and (e) shall apply to permit applications and requests for jurisdictional determinations submitted to the Secretary after the date of enactment of the Water Resources Development Act of 2016.

“(h) LIMITATION.—This section shall not preclude the submission to the Secretary, acting through the Chief of Engineers, of a physical copy of a permit application or a request for a jurisdictional determination.”

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Water Resources Development Act of 2007 is amended by striking the item relating to section 2040 and inserting the following:

“Sec. 2040. Electronic submission and tracking of permit applications.”

#### **SEC. 1135. DATA TRANSPARENCY.**

Section 2017 of the Water Resources Development Act of 2007 (33 U.S.C. 2342) is amended to read as follows:

##### **“SEC. 2017. ACCESS TO WATER RESOURCE DATA.**

“(a) IN GENERAL.—Using available funds, the Secretary shall make publicly available, including on the Internet, all data in the custody of the Corps of Engineers on—

“(1) the planning, design, construction, operation, and maintenance of water resources development projects; and

“(2) water quality and water management of projects owned, operated, or managed by the Corps of Engineers.

“(b) LIMITATION.—Nothing in this section may be construed to compel or authorize the disclosure of data or other information determined by the Secretary to be confidential information, privileged information, law enforcement information, national security information, infrastructure security information, personal information, or information the disclosure of which is otherwise prohibited by law.

“(c) TIMING.—The Secretary shall ensure that data is made publicly available under subsection (a) as quickly as practicable after the data is generated by the Corps of Engineers.

“(d) PARTNERSHIPS.—In carrying out this section, the Secretary may develop partnerships, including through cooperative agreements, with State, tribal, and local governments and other Federal agencies.”

#### **SEC. 1136. QUALITY CONTROL.**

(a) IN GENERAL.—Paragraph (a) of the first section of the Act of December 22, 1944 (58 Stat. 888, chapter 665; 33 U.S.C. 701–1(a)), is amended by inserting “and shall be made publicly available” before the period at the end of the last sentence.

(b) PROJECT ADMINISTRATION.—Section 2041(b)(1) of the Water Resources Development Act of 2007 (33 U.S.C. 2346(b)(1)) is amended by inserting “final post-authorization change report,” after “final reevaluation report,”.

**SEC. 1137. REPORT ON PURCHASE OF FOREIGN MANUFACTURED ARTICLES.**

Section 213(a) of the Water Resources Development Act of 1992 (Public Law 102–580; 106 Stat. 4831) is amended by adding at the end the following:

“(4) REPORT ON PURCHASE OF FOREIGN MANUFACTURED ARTICLES.—

“(A) IN GENERAL.—In the first annual report submitted to Congress after the date of enactment of this paragraph in accordance with section 8 of the Act of August 11, 1888 (25 Stat. 424, chapter 860; 33 U.S.C. 556), and section 925(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2295(b)), the Secretary shall include a report on the amount of acquisitions in the prior fiscal year made by the Corps of Engineers for civil works projects from entities that manufactured the articles, materials, or supplies outside of the United States.

“(B) CONTENTS.—The report required under subparagraph (A) shall indicate, for each category of acquisition—

“(i) the dollar value of articles, materials, and supplies purchased that were manufactured outside of the United States; and

“(ii) a summary of the total procurement funds spent on goods manufactured in the United States and the total procurement funds spent on goods manufactured outside of the United States.

“(C) PUBLIC AVAILABILITY.—Not later than 30 days after the submission of the report required under subparagraph (A), the Secretary shall make such report publicly available, including on the Internet.”.

**SEC. 1138. INTERNATIONAL OUTREACH PROGRAM.**

Section 401(a) of the Water Resources Development Act of 1992 (33 U.S.C. 2329(a)) is amended to read as follows:

“(a) AUTHORIZATION.—

“(1) IN GENERAL.—The Secretary may engage in activities to inform the United States of technological innovations abroad that could significantly improve water resources development in the United States.

“(2) INCLUSIONS.—Activities under paragraph (1) may include—

“(A) development, monitoring, assessment, and dissemination of information about foreign water resources projects that could significantly improve water resources development in the United States;

“(B) research, development, training, and other forms of technology transfer and exchange; and

“(C) offering technical services that cannot be readily obtained in the private sector to be incorporated into water resources projects if the costs for assistance will be recovered under the terms of each project.”.

33 USC 467n  
note.

**SEC. 1139. DAM SAFETY REPAIR PROJECTS.**

The Secretary shall issue guidance—

(1) on the types of circumstances under which the requirement in section 1203(a) of the Water Resources Development Act of 1986 (33 U.S.C. 467n(a)) relating to state-of-the-art design or construction criteria deemed necessary for safety purposes applies to a dam safety repair project;

(2) to assist district offices of the Corps of Engineers in communicating with non-Federal interests when entering into and implementing cost-sharing agreements for dam safety repair projects; and

(3) to assist the Corps of Engineers in communicating with non-Federal interests concerning the estimated and final cost-share responsibilities of the non-Federal interests under agreements for dam safety repair projects.

**SEC. 1140. FEDERAL COST LIMITATION FOR CERTAIN PROJECTS.**

Section 506(c) of the Water Resources Development Act of 2000 (42 U.S.C. 1962d–22(c)) is amended by adding at the end the following:

“(5) RECREATION FEATURES.—A project carried out pursuant to this subsection may include compatible recreation features as determined by the Secretary, except that the Federal costs of such features may not exceed 10 percent of the Federal ecosystem restoration costs of the project.”.

**SEC. 1141. LAKE KEMP, TEXAS.**

Section 3149(a) of the Water Resources Development Act of 2007 (Public Law 110–114; 121 Stat. 1147) is amended—

(1) by striking “2020” and inserting “2025”; and

(2) by striking “this Act” and inserting “the Water Resources Development Act of 2016”.

**SEC. 1142. CORROSION PREVENTION.**

Section 1033 of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 2350) is amended by adding at the end the following:

“(d) REPORT.—In the first annual report submitted to Congress after the date of enactment of this subsection in accordance with section 8 of the Act of August 11, 1888 (25 Stat. 424, chapter 860; 33 U.S.C. 556), and section 925(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2295(b)), the Secretary shall report on the corrosion prevention activities encouraged under this section, including—

“(1) a description of the actions the Secretary has taken to implement this section; and

“(2) a description of the projects utilizing corrosion prevention activities, including which activities were undertaken.”.

**SEC. 1143. SEDIMENT SOURCES.**

(a) IN GENERAL.—The Secretary is authorized to undertake a study of the economic and noneconomic costs, benefits, and impacts of acquiring by purchase, exchange, or otherwise sediment from domestic and nondomestic sources for shoreline protection.

(b) REPORT.—Upon completion of the study, the Secretary shall report to Congress on the availability, benefits, and impacts, of using domestic and nondomestic sources of sediment for shoreline protection.



**SEC. 1144. PRIORITIZATION OF CERTAIN PROJECTS.**

33 USC 2341b.

The Secretary shall give priority to a project for flood risk management if—

- (1) there is an executed project partnership agreement for the project; and
- (2) the project is located in an area—
  - (A) with respect to which—
    - (i) there has been a loss of life due to flood events; and
    - (ii) the President has declared that a major disaster or emergency exists under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170); or
  - (B) that is at significant risk for catastrophic flooding.

**SEC. 1145. GULF COAST OYSTER BED RECOVERY ASSESSMENT.**

(a) **GULF STATES DEFINED.**—In this section, the term “Gulf States” means each of the States of Alabama, Florida, Louisiana, Mississippi, and Texas.

(b) **GULF COAST OYSTER BED RECOVERY ASSESSMENT.**—The Secretary, in coordination with the Gulf States, shall conduct an assessment relating to the recovery of oyster beds on the coasts of the Gulf States that were damaged by events, including—

- (1) Hurricane Katrina in 2005;
- (2) the *Deepwater Horizon* oil spill in 2010; and
- (3) floods in 2011 and 2016.

(c) **INCLUSION.**—The assessment conducted under subsection (b) shall address the beneficial use of dredged material in providing substrate for oyster bed development.

(d) **REPORT.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the assessment conducted under subsection (b).

**SEC. 1146. INITIATING WORK ON SEPARABLE ELEMENTS.**

33 USC 2331a.

With respect to a water resources development project that has received construction funds in the previous 6-year period, for purposes of initiating work on a separable element of the project—

- (1) no new start or new investment decision shall be required; and
- (2) the work shall be treated as ongoing work.

**SEC. 1147. LOWER BOIS D'ARC CREEK RESERVOIR PROJECT, FANNIN COUNTY, TEXAS.**

(a) **FINALIZATION REQUIRED.**—The Secretary shall ensure that environmental decisions and reviews related to the construction of, impoundment of water in, and operation of the Lower Bois d'Arc Creek Reservoir Project, including any associated water transmission facilities, by the North Texas Municipal Water District in Fannin County, Texas, are made on an expeditious basis using the fastest applicable process.

(b) **INTERIM REPORT.**—Not later than June 30, 2017, the Secretary shall report to Congress on the implementation of subsection (a).

**SEC. 1148. RECREATIONAL ACCESS AT CORPS OF ENGINEERS RESERVOIRS.**

Section 1035 of the Water Resources Reform and Development Act of 2014 (Public Law 113–121; 128 Stat. 1234) is amended—

(1) by striking subsection (b) and inserting the following:

“(b) RECREATIONAL ACCESS.—The Secretary shall allow the use of a floating cabin on waters under the jurisdiction of the Secretary in the Cumberland River basin if—

“(1) the floating cabin—

“(A) is in compliance with, and maintained by the owner to satisfy the requirements of, regulations for recreational vessels, including health and safety standards, issued under chapter 43 of title 46, United States Code, and section 312 of the Federal Water Pollution Control Act (33 U.S.C. 1322); and

“(B) is located at a marina leased by the Corps of Engineers; and

“(2) the Secretary has authorized the use of recreational vessels on such waters.”; and

(2) by adding at the end the following:

“(c) LIMITATION ON STATUTORY CONSTRUCTION.—

“(1) IN GENERAL.—Nothing in this section may be construed to authorize the Secretary to impose requirements on a floating cabin or on any facility that serves a floating cabin, including marinas or docks located on waters under the jurisdiction of the Secretary in the Cumberland River basin, that are different or more stringent than the requirements imposed on all recreational vessels authorized to use such waters.

“(2) DEFINITIONS.—In this subsection, the following definitions apply:

“(A) VESSEL.—The term ‘vessel’ has the meaning given that term in section 3 of title 1, United States Code.

“(B) REQUIREMENT.—The term ‘requirement’ includes a requirement imposed through the utilization of guidance.”.

33 USC 1223  
note.

**SEC. 1149. NO WAKE ZONES IN NAVIGATION CHANNELS.**

(a) IN GENERAL.—At the request of a State or local official, the Secretary, in consultation with the Commandant of the Coast Guard, shall promptly identify and, subject to the considerations in subsection (b), allow the implementation of measures for addressing navigation safety hazards in a covered navigation channel resulting from wakes created by recreational vessels identified by such official, while maintaining the navigability of the channel.

(b) CONSIDERATIONS.—In identifying measures under subsection (a) with respect to a covered navigation channel, the Secretary shall consider, at a minimum, whether—

(1) State or local law enforcement officers have documented the existence of safety hazards in the channel that are the direct result of excessive wakes from recreational vessels present in the channel;

(2) the Secretary has made a determination that safety concerns exist in the channel and that the proposed measures will remedy those concerns without significant impacts to the navigable capacity of the channel; and

(3) the measures are consistent with any recommendations made by the Commandant of the Coast Guard to ensure the safety of vessels operating in the channel and the safety of the passengers and crew aboard such vessels.

(c) COVERED NAVIGATION CHANNEL DEFINED.—In this section, the term “covered navigation channel” means a navigation channel that—

- (1) is federally marked or maintained;
- (2) is part of the Atlantic Intracoastal Waterway; and
- (3) is adjacent to a marina.

(d) SAVINGS CLAUSE.—Nothing in this section shall be construed to relieve the master, pilot, or other person responsible for determining the speed of a vessel from the obligation to comply with the inland navigation regulations promulgated pursuant to section 3 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2071) or any other applicable laws or regulations governing the safe navigation of a vessel.

**SEC. 1150. ICE JAM PREVENTION AND MITIGATION.**

33 USC 701s  
note.

(a) IN GENERAL.—The Secretary may carry out projects under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), including planning, design, construction, and monitoring of structural and nonstructural technologies and measures, for preventing and mitigating flood damages associated with ice jams.

(b) INCLUSION.—The projects described in subsection (a) may include the development and demonstration of cost-effective technologies and designs developed in consultation with—

- (1) the Cold Regions Research and Engineering Laboratory of the Corps of Engineers;
- (2) universities;
- (3) Federal, State, and local agencies; and
- (4) private organizations.

(c) PILOT PROGRAM.—

(1) IN GENERAL.—During fiscal years 2017 through 2022, the Secretary shall identify and carry out not fewer than 10 projects under this section to demonstrate technologies and designs developed in accordance with this section.

(2) PROJECT SELECTION.—The Secretary shall ensure that the projects are selected from all cold regions of the United States, including the Upper Missouri River Basin and the Northeast.

**SEC. 1151. STRUCTURAL HEALTH MONITORING.**

33 USC 2353.

(a) IN GENERAL.—The Secretary shall design and develop a structural health monitoring program to assess and improve the condition of infrastructure constructed and maintained by the Corps of Engineers, including research, design, and development of systems and frameworks for—

- (1) response to flood and earthquake events;
- (2) predisaster mitigation measures;
- (3) lengthening the useful life of the infrastructure; and
- (4) identifying risks due to sea level rise.

(b) CONSULTATION AND CONSIDERATIONS.—In developing the program under subsection (a), the Secretary shall—

- (1) consult with academic and other experts; and

(2) consider models for maintenance and repair information, the development of degradation models for real-time measurements and environmental inputs, and research on qualitative inspection data as surrogate sensors.

**SEC. 1152. KENNEWICK MAN.**

(a) **DEFINITIONS.**—In this section, the following definitions apply:

(1) **CLAIMANT TRIBES.**—The term “claimant tribes” means the Confederated Tribes of the Colville Reservation, the Confederated Tribes and Bands of the Yakama Nation, the Nez Perce Tribe, the Confederated Tribes of the Umatilla Indian Reservation, and the Wanapum Band of Priest Rapids.

(2) **DEPARTMENT.**—The term “Department” means the Washington State Department of Archaeology and Historic Preservation.

(3) **HUMAN REMAINS.**—The term “human remains” means the human remains that—

(A) are known as Kennewick Man or the Ancient One, which includes the projectile point lodged in the right ilium bone, as well as any residue from previous sampling and studies; and

(B) are part of archaeological collection number 45BN495.

(b) **TRANSFER.**—Notwithstanding any other provision of Federal law, including the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.), or law of the State of Washington, not later than 90 days after the date of enactment of this Act, the Secretary, acting through the Chief of Engineers, shall transfer the human remains to the Department, on the condition that the Department, acting through the State Historic Preservation Officer, disposes of the human remains and repatriates the human remains to the claimant tribes.

(c) **TERMS AND CONDITIONS.**—The transfer shall be subject to the following terms and conditions:

(1) The release of the human remains to the claimant tribes is contingent upon the claimant tribes following the Department’s requirements in the Revised Code of Washington.

(2) The claimant tribes verify to the Department their agreement on the final burial place of the human remains.

(3) The claimant tribes verify to the Department their agreement that the human remains will be buried in the State of Washington.

(4) The claimant tribes verify to the Department their agreement that the Department will take legal custody of the human remains upon the transfer by the Secretary.

(d) **COST.**—The Corps of Engineers shall be responsible for any costs associated with the transfer.

(e) **LIMITATIONS.**—

(1) **IN GENERAL.**—The transfer shall be limited solely to the human remains portion of the archaeological collection.

(2) **SECRETARY.**—The Secretary shall have no further responsibility for the human remains transferred pursuant to subsection (b) after the date of the transfer.

**SEC. 1153. AUTHORITY TO ACCEPT AND USE MATERIALS AND SERVICES.**

Section 1024 of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 2325a) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) **IN GENERAL.**—Subject to subsection (b), the Secretary is authorized to accept and use materials, services, or funds contributed by a non-Federal public entity, a nonprofit entity, or a private entity to repair, restore, replace, or maintain a water resources project in any case in which the District Commander determines that—

“(1) there is a risk of adverse impacts to the functioning of the project for the authorized purposes of the project; and

“(2) acceptance of the materials and services or funds is in the public interest.”;

(2) by redesignating subsection (c) as subsection (d);

(3) by inserting after subsection (b) the following:

“(c) **ADDITIONAL REQUIREMENTS.**—

“(1) **APPLICABLE LAWS AND REGULATIONS.**—The Secretary may only use materials or services accepted under this section if such materials and services comply with all applicable laws and regulations that would apply if such materials and services were acquired by the Secretary.

“(2) **SUPPLEMENTARY SERVICES.**—The Secretary may only accept and use services under this section that provide supplementary services to existing Federal employees, and may only use such services to perform work that would not otherwise be accomplished as a result of funding or personnel limitations.”; and

(4) in subsection (d) (as redesignated by paragraph (2)) in the matter preceding paragraph (1)—

(A) by striking “Not later than 60 days after initiating an activity under this section,” and inserting “Not later than February 1 of each year after the first fiscal year in which materials, services, or funds are accepted under this section,”; and

(B) by striking “a report” and inserting “an annual report”.

**SEC. 1154. MUNITIONS DISPOSAL.**

Section 1027 of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 426e–2) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by inserting “, at full Federal expense,” after “The Secretary may”; and

(2) in subsection (b) by striking “funded” and inserting “reimbursed”.

**SEC. 1155. MANAGEMENT OF RECREATION FACILITIES.**

Section 225 of the Water Resources Development Act of 1992 (33 U.S.C. 2328) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

“(c) **USER FEES.**—

“(1) **COLLECTION OF FEES.**—

“(A) **IN GENERAL.**—The Secretary may allow a non-Federal public entity that has entered into an agreement

pursuant to subsection (b) to collect user fees for the use of developed recreation sites and facilities, whether developed or constructed by that entity or the Department of the Army.

“(B) USE OF VISITOR RESERVATION SERVICES.—A non-Federal public entity described in subparagraph (A) may use, to manage fee collections and reservations under this section, any visitor reservation service that the Secretary has provided for by contract or interagency agreement, subject to such terms and conditions as the Secretary determines to be appropriate.

“(2) USE OF FEES.—A non-Federal public entity that collects user fees under paragraph (1)—

“(A) may retain up to 100 percent of the fees collected, as determined by the Secretary; and

“(B) notwithstanding section 210(b)(4) of the Flood Control Act of 1968 (16 U.S.C. 460d–3(b)(4)), shall use any retained amount for operation, maintenance, and management activities at the recreation site at which the fee is collected.

“(3) TERMS AND CONDITIONS.—The authority of a non-Federal public entity under this subsection shall be subject to such terms and conditions as the Secretary determines necessary to protect the interests of the United States.”.

**SEC. 1156. STRUCTURES AND FACILITIES CONSTRUCTED BY SECRETARY.**

(a) IN GENERAL.—Section 14 of the Act of March 3, 1899 (30 Stat. 1152, chapter 425; 33 U.S.C. 408), is amended—

(1) by striking “That it shall not be lawful” and inserting the following:

“(a) PROHIBITIONS AND PERMISSIONS.—It shall not be lawful”; and

(2) by adding at the end the following:

“(b) CONCURRENT REVIEW.—

“(1) NEPA REVIEW.—

“(A) IN GENERAL.—In any case in which an activity subject to this section requires a review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), review and approval of the activity under this section shall, to the maximum extent practicable, occur concurrently with any review and decisions made under that Act.

“(B) CORPS OF ENGINEERS AS A COOPERATING AGENCY.—If the Corps of Engineers is not the lead Federal agency for an environmental review described in subparagraph (A), the Corps of Engineers shall, to the maximum extent practicable and consistent with Federal laws—

“(i) participate in the review as a cooperating agency (unless the Corps of Engineers does not intend to submit comments on the project); and

“(ii) adopt and use any environmental document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) by the lead agency to the same extent that a Federal agency could adopt or use a document prepared by another Federal agency under—

“(I) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

“(II) parts 1500 through 1508 of title 40, Code of Federal Regulations (or successor regulations).

“(2) **REVIEWS BY SECRETARY.**—In any case in which the Secretary must approve an action under this section and under another authority, including sections 9 and 10 of this Act, section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), and section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413), the Secretary shall—

“(A) coordinate applicable reviews and, to the maximum extent practicable, carry out the reviews concurrently; and

“(B) adopt and use any document prepared by the Corps of Engineers for the purpose of complying with the same law and that addresses the same types of impacts in the same geographic area if such document, as determined by the Secretary, is current and applicable.

“(3) **CONTRIBUTED FUNDS.**—The Secretary may accept and expend funds received from non-Federal public or private entities to evaluate under this section an alteration or permanent occupation or use of a work built by the United States.

“(c) **TIMELY REVIEW.**—

“(1) **COMPLETE APPLICATION.**—On or before the date that is 30 days after the date on which the Secretary receives an application for permission to take action affecting public projects pursuant to subsection (a), the Secretary shall inform the applicant whether the application is complete and, if it is not, what items are needed for the application to be complete.

“(2) **DECISION.**—On or before the date that is 90 days after the date on which the Secretary receives a complete application for permission under subsection (a), the Secretary shall—

“(A) make a decision on the application; or

“(B) provide a schedule to the applicant identifying when the Secretary will make a decision on the application.

“(3) **NOTIFICATION TO CONGRESS.**—In any case in which a schedule provided under paragraph (2)(B) extends beyond 120 days from the date of receipt of a complete application, the Secretary shall provide to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an explanation justifying the extended timeframe for review.”.

(b) **GUIDANCE.**—Section 1007 of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 408a) is amended by adding at the end the following:

“(f) **GUIDANCE.**—

“(1) **IN GENERAL.**—Not later than 120 days after the date of enactment of this subsection, the Secretary shall issue guidance on the implementation of this section.

“(2) **INCORPORATION.**—In issuing guidance under paragraph (1), or any other regulation, guidance, or engineering circular related to activities covered under section 14 of the Act of March 3, 1899 (30 Stat. 1152, chapter 425; 33 U.S.C. 408),

the Secretary shall incorporate the requirements under this section.

“(g) PRIORITIZATION.—The Secretary shall prioritize and complete the activities required of the Secretary under this section.”.

**SEC. 1157. PROJECT COMPLETION.**

(a) COMPLETION OF PROJECTS AND PROGRAMS.—

(1) IN GENERAL.—For any project or program of assistance authorized under section 219 of the Water Resources Development Act of 1992 (Public Law 102–580; 106 Stat. 4835), the Secretary is authorized to carry out the project to completion if—

(A) as of the date of enactment of this Act, the project has received more than \$4,000,000 in Federal appropriations and those appropriations equal an amount that is greater than 80 percent of the authorized amount;

(B) as of the date of enactment of this Act, significant progress has been demonstrated toward completion of the project or segments of the project but the project is not complete; and

(C) the benefits of the Federal investment will not be realized without completion of the project.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this subsection \$50,000,000 for fiscal years 2017 through 2021.

(b) MODIFICATION OF PROJECTS OR PROGRAMS OF ASSISTANCE.—Section 7001(f) of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 2282d(f)) is amended by adding at the end the following:

“(5) WATER RESOURCES DEVELOPMENT PROJECT.—The term ‘water resources development project’ includes a project under an environmental infrastructure assistance program if authorized before the date of enactment of the Water Resources Development Act of 2016.”.

**SEC. 1158. NEW ENGLAND DISTRICT HEADQUARTERS.**

(a) IN GENERAL.—Subject to subsection (b), using amounts available in the revolving fund established by the first section of the Act of July 27, 1953 (67 Stat. 199, chapter 245; 33 U.S.C. 576), and not otherwise obligated, the Secretary may—

(1) design, renovate, and construct additions to 2 buildings located on Hanscom Air Force Base in Bedford, Massachusetts, for the headquarters of the New England District of the Corps of Engineers; and

(2) carry out such construction and infrastructure improvements as are required to support the headquarters of the New England District of the Corps of Engineers, including any necessary demolition of the existing infrastructure.

(b) REQUIREMENT.—In carrying out subsection (a), the Secretary shall ensure that the revolving fund established by such first section is appropriately reimbursed from funds appropriated for programs that receive a benefit under this section.

**SEC. 1159. BUFFALO DISTRICT HEADQUARTERS.**

(a) IN GENERAL.—Subject to subsection (b), using amounts available in the revolving fund established by the first section of the Act of July 27, 1953 (67 Stat. 199, chapter 245; 33 U.S.C. 576), and not otherwise obligated, the Secretary may—



(1) design and construct a new building in Buffalo, New York, for the headquarters of the Buffalo District of the Corps of Engineers; and

(2) carry out such construction and infrastructure improvements as are required to support the headquarters and related installations and facilities of the Buffalo District of the Corps of Engineers, including any necessary demolition or renovation of the existing infrastructure.

(b) REQUIREMENT.—In carrying out subsection (a), the Secretary shall ensure that the revolving fund established by such first section is appropriately reimbursed from funds appropriated for programs that receive a benefit under this section.

**SEC. 1160. FUTURE FACILITY INVESTMENT.**

33 USC 701b-10.

The first section of the Act of July 27, 1953 (67 Stat. 199, chapter 245; 33 U.S.C. 576), is amended—

(1) by striking “For establishment of a revolving fund” and inserting the following:

“(a) REVOLVING FUND.—For establishment of a revolving fund”; and

(2) by adding at the end the following:

“(b) PROHIBITION.—

“(1) IN GENERAL.—No funds may be expended or obligated from the revolving fund described in subsection (a) to newly construct, or perform a major renovation on, a building for use by the Corps of Engineers unless specifically authorized by law.

“(2) STATUTORY CONSTRUCTION.—Nothing in this subsection may be construed to—

“(A) change any authority provided under subchapter I of chapter 169 of title 10; or

“(B) change the use of funds under subsection (a) for purposes other than those described in paragraph (1).

“(c) TRANSMISSION TO CONGRESS OF PROSPECTUS.—To secure consideration for an authorization under subsection (b), the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representative and the Committee on Environment and Public Works of the Senate a prospectus of the proposed construction or major renovation of a building that includes—

“(1) a brief description of the building;

“(2) the location of the building;

“(3) an estimate of the maximum cost to be provided by the revolving fund for the building to be constructed or renovated;

“(4) the total size of the building after the proposed construction or major renovation;

“(5) the number of personnel proposed to be housed in the building after the construction or major renovation;

“(6) a statement that other suitable space owned by the Federal Government is not available;

“(7) a statement of rents and other housing costs currently being paid for the tenants proposed to be housed in the building; and

“(8) the size of the building currently housing the tenants proposed to be housed in the building.

“(d) PROVISION OF BUILDING PROJECT SURVEYS.—

“(1) IN GENERAL.—If requested by resolution by the Committee on Environment and Public Works of the Senate or the Committee on Transportation and Infrastructure of the House of Representatives, the Secretary shall create a building project survey for the construction or major renovation of a building described in subsection (b).

“(2) REPORT.—Within a reasonable time after creating a building project survey under paragraph (1), the Secretary shall submit to Congress a report on the survey that includes the information required to be included in a prospectus under subsection (c).

“(e) MAJOR RENOVATION DEFINED.—In this section, the term ‘major renovation’ means a renovation or alteration of a building for use by the Corps of Engineers with a total expenditure of more than \$20,000,000.”.

#### **SEC. 1161. COMPLETION OF ECOSYSTEM RESTORATION PROJECTS.**

Section 2039 of the Water Resources Development Act of 2007 (33 U.S.C. 2230a) is amended by adding at the end the following:

“(d) INCLUSIONS.—A monitoring plan under subsection (b) shall include a description of—

“(1) the types and number of restoration activities to be conducted;

“(2) the physical action to be undertaken to achieve the restoration objectives of the project;

“(3) the functions and values that will result from the restoration plan; and

“(4) a contingency plan for taking corrective actions in cases in which monitoring demonstrates that restoration measures are not achieving ecological success in accordance with criteria described in the monitoring plan.

“(e) CONCLUSION OF OPERATION AND MAINTENANCE RESPONSIBILITY.—The responsibility of a non-Federal interest for operation and maintenance of the nonstructural and nonmechanical elements of a project, or a component of a project, for ecosystem restoration shall cease 10 years after the date on which the Secretary makes a determination of success under subsection (b)(2).

“(f) FEDERAL OBLIGATIONS.—The Secretary is not responsible for the operation or maintenance of any components of a project with respect to which a non-Federal interest is released from obligations under subsection (e).”.

#### **SEC. 1162. FISH AND WILDLIFE MITIGATION.**

Section 906 of the Water Resources Development Act of 1986 (33 U.S.C. 2283) is amended—

(1) in subsection (h)—

(A) in paragraph (4)—

(i) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(ii) by inserting after subparagraph (C) the following:

“(D) include measures to protect or restore habitat connectivity;”;

(B) in paragraph (6)(C) by striking “impacts” and inserting “impacts, including impacts to habitat connectivity”; and

(C) by striking paragraph (11) and inserting the following:

“(11) EFFECT.—Nothing in this subsection—

“(A) requires the Secretary to undertake additional mitigation for existing projects for which mitigation has already been initiated, including the addition of fish passage to an existing water resources development project; or

“(B) affects the mitigation responsibilities of the Secretary under any other provision of law.”; and

(2) by adding at the end the following:

“(j) USE OF FUNDS.—

“(1) IN GENERAL.—The Secretary, with the consent of the applicable non-Federal interest, may use funds made available for preconstruction engineering and design after authorization of project construction to satisfy mitigation requirements through third-party arrangements or to acquire interests in land necessary for meeting mitigation requirements under this section.

“(2) NOTIFICATION.—Prior to the expenditure of any funds for a project pursuant to paragraph (1), the Secretary shall notify the Committee on Appropriations and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Appropriations and the Committee on Environment and Public Works of the Senate.

“(k) MEASURES.—The Secretary shall consult with interested members of the public, the Director of the United States Fish and Wildlife Service, the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration, States, including State fish and game departments, and interested local governments to identify standard measures under subsection (h)(6)(C) that reflect the best available scientific information for evaluating habitat connectivity.”.

#### SEC. 1163. WETLANDS MITIGATION.

Section 2036(c) of the Water Resources Development Act of 2007 (33 U.S.C. 2317b) is amended to read as follows:

“(c) MITIGATION BANKS AND IN-LIEU FEE ARRANGEMENTS.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Water Resources Development Act of 2016, the Secretary shall issue implementation guidance that provides for the consideration in water resources development feasibility studies of the entire amount of potential in-kind credits available at mitigation banks approved by the Secretary and in-lieu fee programs with an approved service area that includes the location of the projected impacts of the water resources development project.

“(2) REQUIREMENTS.—All potential mitigation bank and in-lieu fee credits that meet the criteria under paragraph (1) shall be considered a reasonable alternative for planning purposes if—

“(A) the applicable mitigation bank—

“(i) has an approved mitigation banking instrument; and

“(ii) has completed a functional analysis of the potential credits using the approved Corps of Engineers certified habitat assessment model specific to the region; and

“(B) the Secretary determines that the use of such banks or in-lieu fee programs provide reasonable assurance that the statutory (and regulatory) mitigation requirements for a water resources development project are met, including monitoring or demonstrating mitigation success.

“(3) EFFECT.—Nothing in this subsection—

“(A) modifies or alters any requirement for a water resources development project to comply with applicable laws or regulations, including section 906 of the Water Resources Development Act of 1986 (33 U.S.C. 2283); or

“(B) shall be construed as to limit mitigation alternatives or require the use of mitigation banks or in-lieu fee programs.”.

#### **SEC. 1164. DEBRIS REMOVAL.**

Section 3 of the Act of March 2, 1945 (59 Stat. 23, chapter 19; 33 U.S.C. 603a), is amended—

(1) by striking “\$1,000,000” and inserting “\$5,000,000”;

(2) by striking “accumulated snags and other debris” and inserting “accumulated snags, obstructions, and other debris located in or adjacent to a Federal channel”; and

(3) by striking “or flood control” and inserting “, flood control, or recreation”.

33 USC 578a.

#### **SEC. 1165. DISPOSITION STUDIES.**

(a) IN GENERAL.—In carrying out a disposition study for a project of the Corps of Engineers, including a disposition study under section 216 of the Flood Control Act of 1970 (33 U.S.C. 549a) or an assessment under section 6002 of the Water Resources Reform and Development Act of 2014 (Public Law 113–121; 128 Stat. 1349), the Secretary shall consider the extent to which the property concerned has economic, cultural, historic, or recreational significance or impacts at the national, State, or local level.

(b) COMPLETION OF ASSESSMENT AND INVENTORY.—Not later than 1 year after the date of enactment of this Act, the Secretary shall complete the assessment and inventory required under section 6002(a) of the Water Resources Reform and Development Act of 2014 (Public Law 113–121; 128 Stat. 1349).

#### **SEC. 1166. TRANSFER OF EXCESS CREDIT.**

Section 1020(a) of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 2223(a)) is amended—

(1) by striking the subsection designation and heading and all that follows through “Subject to subsection (b)” and inserting the following:

“(a) APPLICATION OF CREDIT.—

“(1) IN GENERAL.—Subject to subsection (b)”;

(2) by adding at the end the following:

“(2) APPLICATION PRIOR TO COMPLETION OF PROJECT.—On request of a non-Federal interest, the credit described in paragraph (1) may be applied prior to completion of a study or project, if the credit amount is verified by the Secretary.”.

#### **SEC. 1167. HURRICANE AND STORM DAMAGE REDUCTION.**

Section 3(c)(2)(B) of the Act of August 13, 1946 (60 Stat. 1056, chapter 960; 33 U.S.C. 426g(c)(2)(B)), is amended by striking “\$5,000,000” and inserting “\$10,000,000”.

**SEC. 1168. FISH HATCHERIES.**

33 USC 2330b.

(a) **IN GENERAL.**—Notwithstanding any other provision of law, the Secretary may operate a fish hatchery for the purpose of restoring a population of fish species located in the region surrounding the fish hatchery that is listed as a threatened species or an endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or a similar State law.

(b) **COSTS.**—A non-Federal entity, another Federal agency, or a group of non-Federal entities or other Federal agencies shall be responsible for 100 percent of the additional costs associated with managing a fish hatchery for the purpose described in subsection (a) that are not authorized as of the date of enactment of this Act for the fish hatchery.

**SEC. 1169. SHORE DAMAGE PREVENTION OR MITIGATION.**

Section 111 of the River and Harbor Act of 1968 (33 U.S.C. 426i) is amended—

(1) in subsection (b) by striking “measures” and all that follows through “project” and inserting “measures, including a study, shall be cost-shared in the same proportion as the cost-sharing provisions applicable to construction of the project”; and

(2) by adding at the end the following:

“(e) **REIMBURSEMENT FOR FEASIBILITY STUDIES.**—Beginning on the date of enactment of this subsection, in any case in which the Secretary implements a project under this section, the Secretary shall reimburse or credit the non-Federal interest for any amounts contributed for the study evaluating the damage in excess of the non-Federal share of the costs, as determined under subsection (b).”.

**SEC. 1170. ENHANCING LAKE RECREATION OPPORTUNITIES.**

Section 3134 of the Water Resources Development Act of 2007 (Public Law 110–114; 121 Stat. 1142) is amended by striking subsection (e).

**SEC. 1171. CREDIT IN LIEU OF REIMBURSEMENT.**

Section 1022 of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 2225) is amended—

(1) in subsection (a) by striking “that has been constructed by a non-Federal interest under section 211 of the Water Resources Development Act of 1996 (33 U.S.C. 701b–13) before the date of enactment of this Act” and inserting “for which a written agreement with the Corps of Engineers for construction was finalized on or before December 31, 2014, under section 211 of the Water Resources Development Act of 1996 (33 U.S.C. 701b–13) (as it existed before the repeal made by section 1014(c)(3))”; and

(2) in subsection (b) by striking “share of the cost of the non-Federal interest of carrying out other flood damage reduction projects or studies” and inserting “non-Federal share of the cost of carrying out other water resources development projects or studies of the non-Federal interest”.

**SEC. 1172. EASEMENTS FOR ELECTRIC, TELEPHONE, OR BROADBAND SERVICE FACILITIES.**

33 USC 2354.

(a) **DEFINITION OF WATER RESOURCES DEVELOPMENT PROJECT.**—In this section, the term “water resources development

project” means a project under the administrative jurisdiction of the Corps of Engineers that is subject to part 327 of title 36, Code of Federal Regulations (or successor regulations).

(b) NO CONSIDERATION FOR EASEMENTS.—The Secretary may not collect consideration for an easement across water resources development project land for the electric, telephone, or broadband service facilities of nonprofit organizations eligible for financing under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.).

(c) ADMINISTRATIVE EXPENSES.—Nothing in this section affects the authority of the Secretary under section 2695 of title 10, United States Code, or under section 9701 of title 31, United State Code, to collect funds to cover reasonable administrative expenses incurred by the Secretary.

#### SEC. 1173. STUDY ON PERFORMANCE OF INNOVATIVE MATERIALS.

(a) INNOVATIVE MATERIAL DEFINED.—In this section, the term “innovative material”, with respect to a water resources development project, includes high performance concrete formulations, geosynthetic materials, advanced alloys and metals, reinforced polymer composites, including any coatings or other corrosion prevention methods used in conjunction with such materials, and any other material, as determined by the Secretary.

(b) STUDY.—

(1) IN GENERAL.—The Secretary shall offer to enter into a contract with the Transportation Research Board of the National Academy of Sciences—

(A) to develop a proposal to study the use and performance of innovative materials in water resources development projects carried out by the Corps of Engineers; and

(B) after the opportunity for public comment provided in accordance with subsection (c), to carry out the study proposed under subparagraph (A).

(2) CONTENTS.—The study under paragraph (1) shall identify—

(A) the conditions that result in degradation of water resources infrastructure;

(B) the capabilities of innovative materials in reducing degradation;

(C) any statutory, fiscal, regulatory, or other barriers to the expanded successful use of innovative materials;

(D) recommendations on including performance-based requirements for the incorporation of innovative materials into the Unified Facilities Guide Specifications;

(E) recommendations on how greater use of innovative materials could increase performance of an asset of the Corps of Engineers in relation to extended service life;

(F) additional ways in which greater use of innovative materials could empower the Corps of Engineers to accomplish the goals of the Strategic Plan for Civil Works of the Corps of Engineers; and

(G) recommendations on any further research needed to improve the capabilities of innovative materials in achieving extended service life and reduced maintenance costs in water resources development infrastructure.

(c) PUBLIC COMMENT.—After developing the study proposal under subsection (b)(1)(A) and before carrying out the study under

subsection (b)(1)(B), the Secretary shall provide an opportunity for public comment on the study proposal.

(d) CONSULTATION.—In carrying out the study under subsection (b)(1), the Secretary, at a minimum, shall consult with relevant experts on engineering, environmental, and industry considerations.

(e) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the results of the study under subsection (b)(1).

**SEC. 1174. CONVERSION OF SURPLUS WATER AGREEMENTS.**

33 USC 708 note.

For the purposes of section 6 of the Act of December 22, 1944 (58 Stat. 890, chapter 665; 33 U.S.C. 708), in any case in which a water supply agreement with a duration of 30 years or longer was predicated on water that was surplus to a purpose and provided for the complete payment of the actual investment costs of storage to be used, and that purpose is no longer authorized as of the date of enactment of this section, the Secretary shall provide to the non-Federal entity an opportunity to convert the agreement to a permanent storage agreement in accordance with section 301 of the Water Supply Act of 1958 (43 U.S.C. 390b), with the same payment terms incorporated in the agreement.

**SEC. 1175. PROJECTS FUNDED BY THE INLAND WATERWAYS TRUST FUND.**

Beginning on June 10, 2014, and ending on the date of the completion of the project for navigation, Lower Ohio River, Locks and Dams 52 and 53, Illinois and Kentucky, authorized by section 3(a)(6) of the Water Resources Development Act of 1988 (102 Stat. 4013), section 1001(b)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)(2)) shall not apply to any project authorized to receive funding from the Inland Waterways Trust Fund established by section 9506(a) of the Internal Revenue Code of 1986.

**SEC. 1176. REHABILITATION ASSISTANCE.**

Section 5 of the Act of August 18, 1941 (55 Stat. 650, chapter 377; 33 U.S.C. 701n), is amended—

(1) in subsection (a) by adding at the end the following:

“(3) NONSTRUCTURAL ALTERNATIVES DEFINED.—In this subsection, the term ‘nonstructural alternatives’ includes efforts to restore or protect natural resources, including streams, rivers, floodplains, wetlands, or coasts, if those efforts will reduce flood risk.”; and

(2) by adding at the end the following:

“(d) INCREASED LEVEL OF PROTECTION.—In conducting repair or restoration work under subsection (a), at the request of the non-Federal sponsor, the Chief of Engineers may increase the level of protection above the level to which the system was designed, or, if the repair or restoration includes repair or restoration of a pumping station, increase the capacity of a pump, if—

“(1) the Chief of Engineers determines the improvements are in the public interest, including consideration of whether—

“(A) the authority under this section has been used more than once at the same location;

“(B) there is an opportunity to decrease significantly the risk of loss of life and property damage; or

“(C) there is an opportunity to decrease total life cycle rehabilitation costs for the project; and

“(2) the non-Federal sponsor agrees to pay the difference between the cost of repair or restoration to the original design level or original capacity and the cost of achieving the higher level of protection or capacity sought by the non-Federal sponsor.

“(e) NOTICE.—The Secretary shall notify and consult with the non-Federal sponsor regarding the opportunity to request implementation of nonstructural alternatives to the repair or restoration of a flood control work under subsection (a).”.

33 USC 467f–2  
note.

**SEC. 1177. REHABILITATION OF CORPS OF ENGINEERS CONSTRUCTED DAMS.**

(a) IN GENERAL.—If the Secretary determines that the project is feasible, the Secretary may carry out a project for the rehabilitation of a dam described in subsection (b).

(b) ELIGIBLE DAMS.—A dam eligible for assistance under this section is a dam—

(1) that has been constructed, in whole or in part, by the Corps of Engineers for flood control purposes;

(2) for which construction was completed before 1940;

(3) that is classified as “high hazard potential” by the State dam safety agency of the State in which the dam is located; and

(4) that is operated by a non-Federal entity.

(c) COST SHARING.—Non-Federal interests shall provide 35 percent of the cost of construction of any project carried out under this section, including provision of all land, easements, rights-of-way, and necessary relocations.

(d) AGREEMENTS.—Construction of a project under this section shall be initiated only after a non-Federal interest has entered into a binding agreement with the Secretary—

(1) to pay the non-Federal share of the costs of construction under subsection (c); and

(2) to pay 100 percent of any operation, maintenance, and replacement and rehabilitation costs with respect to the project in accordance with regulations prescribed by the Secretary.

(e) COST LIMITATION.—The Secretary shall not expend more than \$10,000,000 for a project at any single dam under this section.

(f) FUNDING.—There is authorized to be appropriated to carry out this section \$10,000,000 for each of fiscal years 2017 through 2026.

**SEC. 1178. COLUMBIA RIVER.**

(a) ECOSYSTEM RESTORATION.—Section 536(g) of the Water Resources Development Act of 2000 (Public Law 106–541; 114 Stat. 2662; 128 Stat. 1314) is amended by striking “\$50,000,000” and inserting “\$75,000,000”.

(b) WATERCRAFT INSPECTION STATIONS.—Section 104 of the River and Harbor Act of 1958 (33 U.S.C. 610) is amended—

(1) in subsection (d)—

(A) by striking paragraph (1) and inserting the following:

“(1) IN GENERAL.—In carrying out this section, the Secretary may establish, operate, and maintain new or existing watercraft inspection stations to protect the Columbia River Basin to be located in the States of Idaho, Montana, Oregon, and Washington at locations, as determined by the Secretary in consultation with such States, with the highest likelihood



of preventing the spread of aquatic invasive species at reservoirs operated and maintained by the Secretary. The Secretary shall also assist the States referred to in this paragraph with rapid response to any aquatic invasive species, including quagga or zebra mussel, infestation.”; and

(B) in paragraph (3)(A) by inserting “Governors of the” before “States”; and

(2) in subsection (e) by striking paragraph (3) and inserting the following:

“(3) assist States in early detection of aquatic invasive species, including quagga and zebra mussels; and”.

(c) TRIBAL ASSISTANCE.—

(1) ASSISTANCE AUTHORIZED.—

(A) IN GENERAL.—Upon the request of the Secretary of the Interior, the Secretary may provide assistance on land transferred by the Department of the Army to the Department of the Interior pursuant to title IV of Public Law 100–581 (102 Stat. 2944; 110 Stat. 766; 110 Stat. 3762; 114 Stat. 2679; 118 Stat. 544) to Indian tribes displaced as a result of the construction of the Bonneville Dam, Oregon.

(B) CLARIFICATION.—

(i) IN GENERAL.—The Secretary is authorized to provide the assistance described in subparagraph (A) based on information known or studies undertaken by the Secretary prior to the date of enactment of this subsection.

(ii) ADDITIONAL STUDIES.—To the extent that the Secretary determines necessary, the Secretary is authorized to undertake additional studies to further examine any impacts to Indian tribes identified in subparagraph (A) beyond any information or studies identified under clause (i), except that the Secretary is authorized to provide the assistance described in subparagraph (A) based solely on information known or studies undertaken by the Secretary prior to the date of enactment of this subsection.

(2) STUDY OF IMPACTS OF JOHN DAY DAM, OREGON.—The Secretary shall—

(A) conduct a study to determine the number of Indian tribes displaced by the construction of the John Day Dam, Oregon; and

(B) recommend to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a plan to provide assistance to Indian tribes displaced as a result of the construction of the John Day Dam, Oregon.

#### SEC. 1179. MISSOURI RIVER.

(a) RESERVOIR SEDIMENT MANAGEMENT.—

(1) DEFINITION OF SEDIMENT MANAGEMENT PLAN.—In this subsection, the term “sediment management plan” means a plan for preventing sediment from reducing water storage capacity at a reservoir and increasing water storage capacity through sediment removal at a reservoir.

(2) UPPER MISSOURI RIVER BASIN PILOT PROGRAM.—The Secretary shall carry out a pilot program for the development and implementation of sediment management plans for reservoirs owned and operated by the Secretary in the Upper Missouri River Basin, on request by project beneficiaries.

(3) PLAN ELEMENTS.—A sediment management plan under paragraph (2) shall—

(A) provide opportunities for project beneficiaries and other stakeholders to participate in sediment management decisions;

(B) evaluate the volume of sediment in a reservoir and impacts on storage capacity;

(C) identify preliminary sediment management options, including sediment dikes and dredging;

(D) identify constraints;

(E) assess technical feasibility, economic justification, and environmental impacts;

(F) identify beneficial uses for sediment; and

(G) to the maximum extent practicable, use, develop, and demonstrate innovative, cost-saving technologies, including structural and nonstructural technologies and designs, to manage sediment.

(4) COST SHARE.—The beneficiaries requesting a sediment management plan shall share in the cost of development and implementation of the plan and such cost shall be allocated among the beneficiaries in accordance with the benefits to be received.

(5) CONTRIBUTED FUNDS.—The Secretary may accept funds from non-Federal interests and other Federal agencies to develop and implement a sediment management plan under this subsection.

(6) GUIDANCE.—The Secretary shall use the knowledge gained through the development and implementation of sediment management plans under paragraph (2) to develop guidance for sediment management at other reservoirs.

(7) PARTNERSHIP WITH SECRETARY OF THE INTERIOR.—

(A) IN GENERAL.—The Secretary shall carry out the pilot program established under this subsection in partnership with the Secretary of the Interior, and the program may apply to reservoirs managed or owned by the Bureau of Reclamation on execution of a memorandum of agreement between the Secretary and the Secretary of the Interior establishing the framework for a partnership and the terms and conditions for sharing expertise and resources.

(B) LEAD AGENCY.—The Secretary that has primary jurisdiction over a reservoir shall take the lead in developing and implementing a sediment management plan for that reservoir.

(8) OTHER AUTHORITIES NOT AFFECTED.—Nothing in this subsection affects sediment management or the share of costs paid by Federal and non-Federal interests relating to sediment management under any other provision of law (including regulations).

(b) SNOWPACK AND DROUGHT MONITORING.—Section 4003(a) of the Water Resources Reform and Development Act of 2014 (Public

Law 113–121; 128 Stat. 1310) is amended by adding at the end the following:

“(5) LEAD AGENCY.—The Corps of Engineers shall be the lead agency for carrying out and coordinating the activities described in paragraph (1).”.

**SEC. 1180. CHESAPEAKE BAY OYSTER RESTORATION.**

Section 704(b)(1) of the Water Resources Development Act of 1986 (33 U.S.C. 2263(b)(1)) is amended by striking “\$60,000,000” and inserting “\$100,000,000”.

**SEC. 1181. SALTON SEA, CALIFORNIA.**

(a) IN GENERAL.—Section 3032 of the Water Resources Development Act of 2007 (Public Law 110–114; 121 Stat. 1113) is amended—

(1) in the section heading by inserting “**PROGRAM**” after “**RESTORATION**”;

(2) in subsection (b)—

(A) in the subsection heading by striking “PILOT PROJECTS” and inserting “PROGRAM”;

(B) in paragraph (1)—

(i) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively;

(ii) by inserting before subparagraph (B) (as so redesignated) the following:

“(A) ESTABLISHMENT.—The Secretary shall carry out a program to implement projects to restore the Salton Sea in accordance with this section.”;

(iii) in subparagraph (B) (as redesignated by clause (i)) by striking “the pilot”; and

(iv) in subparagraph (C)(i) (as redesignated by clause (i))—

(I) in the matter preceding subclause (I), by striking “the pilot projects referred to in subparagraph (A)” and inserting “the projects referred to in subparagraph (B)”;

(II) in subclause (I) by inserting “, Salton Sea Authority, or other non-Federal interest” before the semicolon; and

(III) in subclause (II) by striking “pilot”;

(C) in paragraph (2), in the matter preceding subparagraph (A), by striking “pilot”; and

(D) in paragraph (3)—

(i) by striking “pilot” each place it appears; and

(ii) by inserting “, Salton Sea Authority, or other non-Federal interest” after “State”; and

(3) in subsection (c) by striking “pilot”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Water Resources Development Act of 2007 (Public Law 110–114; 121 Stat. 1041) is amended by striking the item relating to section 3032 and inserting the following:

“3032. Salton Sea restoration program, California.”.

**SEC. 1182. ADJUSTMENT.**

Section 219(f) of the Water Resources Development Act of 1992 (Public Law 102–580) is amended—

(1) in paragraph (25) (113 Stat. 336)—

- (A) by inserting “Berkeley,” before “Calhoun,”; and
- (B) by striking “Orangeberg, and Sumter” and inserting “and Orangeberg”; and
- (2) in paragraph (78) (121 Stat. 1258)—
  - (A) in the paragraph heading by striking “ST. CLAIR COUNTY,” and inserting “ST. CLAIR COUNTY, BLOUNT COUNTY, AND CULLMAN COUNTY,”; and
  - (B) by striking “St. Clair County,” and inserting “St. Clair County, Blount County, and Cullman County,”.

#### **SEC. 1183. COASTAL ENGINEERING.**

(a) **IN GENERAL.**—Section 4014(b) of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 2803a(b)) is amended—

(1) in paragraph (1) by inserting “Indian tribes,” after “nonprofit organizations,”;

(2) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(3) by inserting after paragraph (2) the following:

“(3) give priority to projects in communities the existence of which is threatened by rising sea level, including projects relating to shoreline restoration, tidal marsh restoration, dunal habitats to protect coastal infrastructure, reduction of future and existing emergency repair costs, and the beneficial reuse of dredged materials;”.

(b) **INTERAGENCY COORDINATION ON COASTAL RESILIENCE.**—

(1) **IN GENERAL.**—The Secretary shall convene an interagency working group on resilience to extreme weather, which will coordinate research, data, and Federal investments related to sea level rise, resiliency, and vulnerability to extreme weather, including coastal resilience.

(2) **CONSULTATION.**—The interagency working group convened under paragraph (1) shall participate in any activity carried out by an organization authorized by a State to study and issue recommendations on how to address the impacts on Federal assets of recurrent flooding and sea level rise, including providing consultation regarding policies, programs, studies, plans, and best practices relating to recurrent flooding and sea level rise in areas with significant Federal assets.

(c) **REGIONAL ASSESSMENTS.**—

(1) **IN GENERAL.**—The Secretary may conduct regional assessments of coastal and back bay protection and of Federal and State policies and programs related to coastal water resources, including—

(A) an assessment of the probability and the extent of coastal flooding and erosion, including back bay and estuarine flooding;

(B) recommendations for policies and other measures related to regional Federal, State, local, and private participation in shoreline and back bay protection projects;

(C) an evaluation of the performance of existing Federal coastal storm damage reduction, ecosystem restoration, and navigation projects, including recommendations for the improvement of those projects; and

(D) recommendations for the demonstration of methodologies for resilience through the use of natural and nature-based infrastructure approaches, as appropriate.

(2) COOPERATION.—In carrying out paragraph (1), the Secretary shall cooperate with—

- (A) heads of appropriate Federal agencies;
- (B) States that have approved coastal management programs and appropriate agencies of those States;
- (C) local governments; and
- (D) the private sector.

(d) STREAMLINING.—In carrying out this section, the Secretary shall—

(1) to the maximum extent practicable, use existing research done by Federal, State, regional, local, and private entities to eliminate redundancies and related costs;

(2) receive from any of the entities described in subsection (c)(2)—

- (A) contributed funds; or
- (B) research that may be eligible for credit as work-in-kind under applicable Federal law; and
- (3) enable each District or combination of Districts of the Corps of Engineers that jointly participate in carrying out an assessment under this section to consider regionally appropriate engineering, biological, ecological, social, economic, and other factors in carrying out the assessment.

(e) REPORTS.—The Secretary shall submit in the 2019 annual report submitted to Congress in accordance with section 8 of the Act of August 11, 1888 (25 Stat. 424, chapter 860; 33 U.S.C. 556), and section 925(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2295(b)) all reports and recommendations prepared under this section, together with any necessary supporting documentation.

#### SEC. 1184. CONSIDERATION OF MEASURES.

33 USC 2289a.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) NATURAL FEATURE.—The term “natural feature” means a feature that is created through the action of physical, geological, biological, and chemical processes over time.

(2) NATURE-BASED FEATURE.—The term “nature-based feature” means a feature that is created by human design, engineering, and construction to provide risk reduction in coastal areas by acting in concert with natural processes.

(b) REQUIREMENT.—In studying the feasibility of projects for flood risk management, hurricane and storm damage reduction, and ecosystem restoration the Secretary shall, with the consent of the non-Federal sponsor of the feasibility study, consider, as appropriate—

- (1) natural features;
- (2) nature-based features;
- (3) nonstructural measures; and
- (4) structural measures.

(c) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than February 1, 2020, and 5 and 10 years thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the implementation of subsection (b).

(2) CONTENTS.—The report under paragraph (1) shall include, at a minimum, the following:

(A) A description of guidance or instructions issued, and other measures taken, by the Secretary and the Chief of Engineers to implement subsection (b).

(B) An assessment of the costs, benefits, impacts, and trade-offs associated with measures recommended by the Secretary for coastal risk reduction and the effectiveness of those measures.

(C) A description of any statutory, fiscal, or regulatory barriers to the appropriate consideration and use of a full array of measures for coastal risk reduction.

**SEC. 1185. TABLE ROCK LAKE, ARKANSAS AND MISSOURI.**

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary—

(1) shall include a 60-day public comment period for the Table Rock Lake Master Plan and Table Rock Lake Shoreline Management Plan revision; and

(2) shall finalize the revision for the Table Rock Lake Master Plan and Table Rock Lake Shoreline Management Plan during the 2-year period beginning on the date of enactment of this Act.

(b) SHORELINE USE PERMITS.—During the period described in subsection (a)(2), the Secretary shall lift or suspend the moratorium on the issuance of new, and modifications to existing, shoreline use permits based on the existing Table Rock Lake Master Plan and Table Rock Lake Shoreline Management Plan.

(c) OVERSIGHT COMMITTEE.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Secretary shall establish an oversight committee (referred to in this subsection as the “Committee”).

(2) PURPOSES.—The purposes of the Committee shall be—

(A) to review any permit to be issued under the existing Table Rock Lake Master Plan at the recommendation of the District Engineer; and

(B) to advise the District Engineer on revisions to the new Table Rock Lake Master Plan and Table Rock Lake Shoreline Management Plan.

(3) MEMBERSHIP.—The membership of the Committee shall not exceed 6 members and shall include—

(A) not more than 1 representative each from the State of Missouri and the State of Arkansas;

(B) not more than 1 representative each from local economic development organizations with jurisdiction over Table Rock Lake; and

(C) not more than 1 representative each representing the boating and conservation interests of Table Rock Lake.

(4) STUDY.—The Secretary shall—

(A) carry out a study on the need to revise permit fees relating to Table Rock Lake to better reflect the cost of issuing those permits and achieve cost savings;

(B) submit to Congress a report on the results of the study described in subparagraph (A); and

(C) begin implementation of a new permit fee structure based on the findings of the study described in subparagraph (A).

**SEC. 1186. RURAL WESTERN WATER.**

Section 595 of the Water Resources Development Act of 1999 (Public Law 106–53; 113 Stat. 383; 128 Stat. 1316) is amended—

(1) by redesignating subsection (h) as subsection (i);

(2) by inserting after subsection (g) the following:

“(h) ELIGIBILITY.—

“(1) IN GENERAL.—Assistance under this section shall be made available to all eligible States and locales described in subsection (b) consistent with program priorities determined by the Secretary in accordance with criteria developed by the Secretary to establish the program priorities.

“(2) SELECTION OF PROJECTS.—In selecting projects for assistance under this section, the Secretary shall give priority to a project located in an eligible State or local entity for which the project sponsor is prepared to—

“(A) execute a new or amended project cooperation agreement; and

“(B) commence promptly after the date of enactment of the Water Resources Development Act of 2016.

“(3) RURAL PROJECTS.—The Secretary shall consider a project authorized under this section and an environmental infrastructure project authorized under section 219 of the Water Resources Development Act of 1992 (Public Law 102–580; 106 Stat. 4835) for new starts on the same basis as any other similarly funded project.”; and

(3) in subsection (i) (as redesignated by paragraph (1)) by striking “which shall—” and all that follows through “remain” and inserting “to remain”.

**SEC. 1187. INTERSTATE COMPACTS.**

Section 301 of the Water Supply Act of 1958 (43 U.S.C. 390b) is amended by striking subsection (f).

**SEC. 1188. SENSE OF CONGRESS.**

It is the sense of Congress that—

(1) State water quality standards that impact the disposal of dredged material should be developed collaboratively, with input from all relevant stakeholders;

(2) open-water disposal of dredged material should be reduced to the maximum extent practicable; and

(3) where practicable, the preference is for disputes between States related to the disposal of dredged material and the protection of water quality to be resolved between the States in accordance with regional plans and with the involvement of regional bodies.

**SEC. 1189. DREDGED MATERIAL DISPOSAL.**

Disposal of dredged material shall not be considered environmentally acceptable for the purposes of identifying the Federal standard (as defined in section 335.7 of title 33, Code of Federal Regulations (or successor regulations)) if the disposal violates applicable State water quality standards approved by the Administrator of the Environmental Protection Agency under section 303 of the Federal Water Pollution Control Act (33 U.S.C. 1313).

33 USC 1344  
note.

## Subtitle B—Studies

### SEC. 1201. AUTHORIZATION OF PROPOSED FEASIBILITY STUDIES.

The Secretary is authorized to conduct a feasibility study for the following projects for water resources development and conservation and other purposes, as identified in the reports titled “Report to Congress on Future Water Resources Development” submitted to Congress on January 29, 2015, and January 29, 2016, respectively, pursuant to section 7001 of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 2282d) or otherwise reviewed by Congress:

(1) OUACHITA-BLACK RIVERS, ARKANSAS AND LOUISIANA.—Project for navigation, Ouachita-Black Rivers, Arkansas and Louisiana.

(2) CACHE CREEK SETTling BASIN, CALIFORNIA.—Project for flood damage reduction and ecosystem restoration, Cache Creek Settling Basin, California.

(3) COYOTE VALLEY DAM, CALIFORNIA.—Project for flood control, water conservation, and related purposes, Russian River Basin, California, authorized by the River and Harbor Act of 1950 (64 Stat. 177), to modify the Coyote Valley Dam to add environmental restoration as a project purpose and to increase water supply and improve reservoir operations.

(4) DEL ROSA CHANNEL, CITY OF SAN BERNARDINO, CALIFORNIA.—Project for flood damage reduction and ecosystem restoration, Del Rosa Channel, city of San Bernardino, California.

(5) MERCED COUNTY STREAMS, CALIFORNIA.—Project for flood damage reduction, Merced County Streams, California.

(6) MISSION-ZANJA CHANNEL, CITIES OF SAN BERNARDINO AND REDLANDS, CALIFORNIA.—Project for flood damage reduction and ecosystem restoration, Mission-Zanja Channel, cities of San Bernardino and Redlands, California.

(7) SOBOBA INDIAN RESERVATION, CALIFORNIA.—Project for flood damage reduction, Soboba Indian Reservation, California.

(8) INDIAN RIVER INLET, DELAWARE.—Project for hurricane and storm damage reduction, Indian River Inlet, Delaware.

(9) LEWES BEACH, DELAWARE.—Project for hurricane and storm damage reduction, Lewes Beach, Delaware.

(10) MISPELLION COMPLEX, KENT AND SUSSEX COUNTIES, DELAWARE.—Project for hurricane and storm damage reduction, Mispillion Complex, Kent and Sussex Counties, Delaware.

(11) DAYTONA BEACH, FLORIDA.—Project for flood damage reduction, Daytona Beach, Florida.

(12) BRUNSWICK HARBOR, GEORGIA.—Project for navigation, Brunswick Harbor, Georgia.

(13) DUBUQUE, IOWA.—Project for flood damage reduction, Dubuque, Iowa.

(14) ST. TAMMANY PARISH, LOUISIANA.—Project for flood damage reduction and ecosystem restoration, St. Tammany Parish, Louisiana.

(15) CATTARAUGUS CREEK, NEW YORK.—Project for flood damage reduction, Cattaraugus Creek, New York.

(16) CAYUGA INLET, ITHACA, NEW YORK.—Project for navigation and flood damage reduction, Cayuga Inlet, Ithaca, New York.



(17) DELAWARE RIVER BASIN, NEW YORK, NEW JERSEY, PENNSYLVANIA, AND DELAWARE.—Projects for flood control, Delaware River Basin, New York, New Jersey, Pennsylvania, and Delaware, authorized by section 408 of the Act of July 24, 1946 (60 Stat. 644, chapter 596), and section 203 of the Flood Control Act of 1962 (76 Stat. 1182), to review operations of the projects to enhance opportunities for ecosystem restoration and water supply.

(18) SILVER CREEK, HANOVER, NEW YORK.—Project for flood damage reduction and ecosystem restoration, Silver Creek, Hanover, New York.

(19) STONYCREEK AND LITTLE CONEMAUGH RIVERS, PENNSYLVANIA.—Project for flood damage reduction and recreation, Stonycreek and Little Conemaugh Rivers, Pennsylvania.

(20) TIOGA-HAMMOND LAKE, PENNSYLVANIA.—Project for ecosystem restoration, Tioga-Hammond Lake, Pennsylvania.

(21) BRAZOS RIVER, FORT BEND COUNTY, TEXAS.—Project for flood damage reduction in the vicinity of the Brazos River, Fort Bend County, Texas.

(22) CHACON CREEK, CITY OF LAREDO, TEXAS.—Project for flood damage reduction, ecosystem restoration, and recreation, Chacon Creek, city of Laredo, Texas.

(23) CORPUS CHRISTI SHIP CHANNEL, TEXAS.—Project for navigation, Corpus Christi Ship Channel, Texas.

(24) CITY OF EL PASO, TEXAS.—Project for flood damage reduction, city of El Paso, Texas.

(25) GULF INTRACOASTAL WATERWAY, BRAZORIA AND MATAGORDA COUNTIES, TEXAS.—Project for navigation and hurricane and storm damage reduction, Gulf Intracoastal Waterway, Brazoria and Matagorda Counties, Texas.

(26) PORT OF BAY CITY, TEXAS.—Project for navigation, Port of Bay City, Texas.

(27) CHINCOTEAGUE ISLAND, VIRGINIA.—Project for hurricane and storm damage reduction, navigation, and ecosystem restoration, Chincoteague Island, Virginia.

(28) BURLEY CREEK WATERSHED, KITSAP COUNTY, WASHINGTON.—Project for flood damage reduction and ecosystem restoration, Burley Creek Watershed, Kitsap County, Washington.

(29) SAVANNAH RIVER BELOW AUGUSTA, GEORGIA.—Project for ecosystem restoration, water supply, recreation, and flood control, Savannah River below Augusta, Georgia.

(30) JOHNSTOWN, PENNSYLVANIA.—Project for flood damage reduction, Johnstown, Pennsylvania.

#### SEC. 1202. ADDITIONAL STUDIES.

(a) TULSA AND WEST TULSA, ARKANSAS RIVER, OKLAHOMA.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of modifying the projects for flood risk management, Tulsa and West Tulsa, Oklahoma, authorized by section 3 of the Act of August 18, 1941 (55 Stat. 645, chapter 377).

(2) REQUIREMENTS.—In carrying out the study under paragraph (1), the Secretary shall address project deficiencies, uncertainties, and significant data gaps, including material, construction, and subsurface, which render the project at risk of overtopping, breaching, or system failure.

(3) **PRIORITIZATION TO ADDRESS SIGNIFICANT RISKS.**—In any case in which a levee or levee system (as defined in section 9002 of the Water Resources Development Act of 2007 (33 U.S.C. 3301)) is classified as Class I or II under the levee safety action classification tool developed by the Corps of Engineers, the Secretary shall expedite the project for budget consideration.

(b) **CINCINNATI, OHIO.**—

(1) **REVIEW.**—The Secretary shall review the Central Riverfront Park Master Plan, dated December 1999, and the Ohio Riverfront Study, Cincinnati, Ohio, dated August 2002, to determine the feasibility of carrying out flood risk reduction, ecosystem restoration, and recreation components beyond the ecosystem restoration and recreation components that were undertaken pursuant to section 5116 of the Water Resources Development Act of 2007 (Public Law 110–114; 121 Stat. 1238) as a second phase of that project.

(2) **AUTHORIZATION.**—The project authorized under section 5116 of the Water Resources Development Act of 2007 (Public Law 110–114; 121 Stat. 1238) is modified to authorize the Secretary to undertake the additional flood risk reduction and ecosystem restoration components described in paragraph (1), at a total cost of \$30,000,000, if the Secretary determines that the additional flood risk reduction, ecosystem restoration, and recreation components, considered together, are feasible.

(c) **ARCTIC DEEP DRAFT PORT DEVELOPMENT PARTNERSHIPS.**—Section 2105 of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 2243) is amended—

(1) by striking “(25 U.S.C. 450b))” each place it appears and inserting “(25 U.S.C. 5304)) and a Native village, Regional Corporation, or Village Corporation (as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602))”;

(2) in subsection (d) by striking “the Secretary of Homeland Security” and inserting “the Secretary of the department in which the Coast Guard is operating”; and

(3) by adding at the end the following:

“(e) **CONSIDERATION OF NATIONAL SECURITY INTERESTS.**—In carrying out a study of the feasibility of an Arctic deep draft port, the Secretary—

“(1) shall consult with the Secretary of the department in which the Coast Guard is operating to identify benefits in carrying out the missions specified in section 888 of the Homeland Security Act of 2002 (6 U.S.C. 468) associated with an Arctic deep draft port;

“(2) shall consult with the Secretary of Defense to identify national security benefits associated with an Arctic deep draft port; and

“(3) may consider such benefits in determining whether an Arctic deep draft port is feasible.”.

(d) **MISSISSIPPI RIVER SHIP CHANNEL, GULF TO BATON ROUGE, LOUISIANA.**—The Secretary shall conduct a study to determine the feasibility of modifying the project for navigation, Mississippi River Ship Channel, Gulf to Baton Rouge, Louisiana, authorized by section 201(a) of the Harbor Development and Navigation Improvement Act of 1986 (Public Law 99–662; 100 Stat. 4090), to deepen the channel approaches and the associated area on the left descending

bank of the Mississippi River between mile 98.3 and mile 100.6 Above Head of Passes (AHP) to a depth equal to the Channel.

**SEC. 1203. NORTH ATLANTIC COASTAL REGION.**

Section 4009 of the Water Resources Reform and Development Act of 2014 (Public Law 113–121; 128 Stat. 1316) is amended—

(1) in subsection (a) by striking “conduct a study to determine the feasibility of carrying out projects” and inserting “carry out a comprehensive assessment and management plan”;

(2) in subsection (b)—

(A) in the subsection heading by striking “STUDY” and inserting “ASSESSMENT AND PLAN”; and

(B) in the matter preceding paragraph (1) by striking “study” and inserting “assessment and plan”; and

(3) in subsection (c)(1) by striking “study” and inserting “assessment and plan”.

**SEC. 1204. SOUTH ATLANTIC COASTAL STUDY.**

(a) **IN GENERAL.**—The Secretary shall conduct a study of the coastal areas located within the geographical boundaries of the South Atlantic Division of the Corps of Engineers to identify the risks and vulnerabilities of those areas to increased hurricane and storm damage as a result of sea level rise.

(b) **REQUIREMENTS.**—In carrying out the study under subsection (a), the Secretary shall—

(1) conduct a comprehensive analysis of current hurricane and storm damage reduction measures with an emphasis on regional sediment management practices to sustainably maintain or enhance current levels of storm protection;

(2) identify risks and coastal vulnerabilities in the areas affected by sea level rise;

(3) recommend measures to address the vulnerabilities described in paragraph (2); and

(4) develop a long-term strategy for—

(A) addressing increased hurricane and storm damages that result from rising sea levels; and

(B) identifying opportunities to enhance resiliency, increase sustainability, and lower risks in—

(i) populated areas;

(ii) areas of concentrated economic development; and

(iii) areas with vulnerable environmental resources.

(c) **REPORT.**—Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report recommending specific and detailed actions to address the risks and vulnerabilities of the areas described in subsection (a) due to increased hurricane and storm damage as a result of sea level rise.

**SEC. 1205. TEXAS COASTAL AREA.**

In carrying out the comprehensive plan authorized by section 4091 of the Water Resources Development Act of 2007 (Public Law 110–114; 121 Stat. 1187), the Secretary shall consider studies, data, and information developed by the Gulf Coast Community Protection and Recovery District to expedite completion of the plan.

**SEC. 1206. UPPER MISSISSIPPI AND ILLINOIS RIVERS.**

(a) **IN GENERAL.**—The Secretary shall conduct a study of the riverine areas located within the Upper Mississippi River and Illinois River basins to identify the risks and vulnerabilities of those areas to increased flood damages.

(b) **REQUIREMENTS.**—In carrying out the study under subsection (a), the Secretary shall—

(1) conduct a comprehensive analysis of flood risk management measures to maintain or enhance current levels of protection;

(2) identify risks and vulnerabilities in the areas affected by flooding;

(3) recommend specific measures and actions to address the risks and vulnerabilities described in paragraph (2);

(4) coordinate with the heads of other appropriate Federal agencies, the Governors of the States within the Upper Mississippi and Illinois River basins, the appropriate levee and drainage districts, nonprofit organizations, and other interested parties;

(5) develop basinwide hydrologic models for the Upper Mississippi River System and improve analytical methods needed to produce scientifically based recommendations for improvements to flood risk management; and

(6) develop a long-term strategy for—

(A) addressing increased flood damages; and

(B) identifying opportunities to enhance resiliency, increase sustainability, and lower risks in—

(i) populated areas;

(ii) areas of concentrated economic development;

and

(iii) areas with vulnerable environmental resources.

(c) **REPORT.**—Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report describing the results of the study conducted under subsection (b).

**SEC. 1207. KANAWHA RIVER BASIN.**

The Secretary shall conduct studies to determine the feasibility of implementing projects for flood risk management, ecosystem restoration, navigation, water supply, recreation, and other water resource related purposes within the Kanawha River Basin, West Virginia, Virginia, and North Carolina.

## **Subtitle C—Deauthorizations, Modifications, and Related Provisions**

33 USC 579d.

**SEC. 1301. DEAUTHORIZATION OF INACTIVE PROJECTS.**

(a) **PURPOSES.**—The purposes of this section are—

(1) to identify \$10,000,000,000 in water resources development projects authorized by Congress that are no longer viable for construction due to—

(A) a lack of local support;

(B) a lack of available Federal or non-Federal resources; or

(C) an authorizing purpose that is no longer relevant or feasible;

(2) to create an expedited and definitive process for Congress to deauthorize water resources development projects that are no longer viable for construction; and

(3) to allow the continued authorization of water resources development projects that are viable for construction.

(b) INTERIM DEAUTHORIZATION LIST.—

(1) IN GENERAL.—The Secretary shall develop an interim deauthorization list that identifies—

(A) each water resources development project, or separable element of a project, authorized for construction before November 8, 2007, for which—

(i) planning, design, or construction was not initiated before the date of enactment of this Act; or

(ii) planning, design, or construction was initiated before the date of enactment of this Act, but for which no funds, Federal or non-Federal, were obligated for planning, design, or construction of the project or separable element of the project during the current fiscal year or any of the 6 preceding fiscal years; and

(B) each project or separable element identified and included on a list to Congress for deauthorization pursuant to section 1001(b)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)(2)).

(2) PUBLIC COMMENT AND CONSULTATION.—

(A) IN GENERAL.—The Secretary shall solicit comments from the public and the Governors of each applicable State on the interim deauthorization list developed under paragraph (1).

(B) COMMENT PERIOD.—The public comment period shall be 90 days.

(3) SUBMISSION TO CONGRESS; PUBLICATION.—Not later than 90 days after the date of the close of the comment period under paragraph (2), the Secretary shall—

(A) submit a revised interim deauthorization list to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives; and

(B) publish the revised interim deauthorization list in the Federal Register.

(c) FINAL DEAUTHORIZATION LIST.—

(1) IN GENERAL.—The Secretary shall develop a final deauthorization list of water resources development projects, or separable elements of projects, from the revised interim deauthorization list described in subsection (b)(3).

(2) DEAUTHORIZATION AMOUNT.—

(A) PROPOSED FINAL LIST.—The Secretary shall prepare a proposed final deauthorization list of projects and separable elements of projects that have, in the aggregate, an estimated Federal cost to complete that is at least \$10,000,000,000.

(B) DETERMINATION OF FEDERAL COST TO COMPLETE.—For purposes of subparagraph (A), the Federal cost to complete shall take into account any allowances authorized

by section 902 of the Water Resources Development Act of 1986 (33 U.S.C. 2280), as applied to the most recent project schedule and cost estimate.

(3) IDENTIFICATION OF PROJECTS.—

(A) SEQUENCING OF PROJECTS.—

(i) IN GENERAL.—The Secretary shall identify projects and separable elements of projects for inclusion on the proposed final deauthorization list according to the order in which the projects and separable elements of the projects were authorized, beginning with the earliest authorized projects and separable elements of projects and ending with the latest project or separable element of a project necessary to meet the aggregate amount under paragraph (2)(A).

(ii) FACTORS TO CONSIDER.—The Secretary may identify projects and separable elements of projects in an order other than that established by clause (i) if the Secretary determines, on a case-by-case basis, that a project or separable element of a project is critical for interests of the United States, based on the possible impact of the project or separable element of the project on public health and safety, the national economy, or the environment.

(iii) CONSIDERATION OF PUBLIC COMMENTS.—In making determinations under clause (ii), the Secretary shall consider any comments received under subsection (b)(2).

(B) APPENDIX.—The Secretary shall include as part of the proposed final deauthorization list an appendix that—

(i) identifies each project or separable element of a project on the interim deauthorization list developed under subsection (b) that is not included on the proposed final deauthorization list; and

(ii) describes the reasons why the project or separable element is not included on the proposed final list.

(4) PUBLIC COMMENT AND CONSULTATION.—

(A) IN GENERAL.—The Secretary shall solicit comments from the public and the Governor of each applicable State on the proposed final deauthorization list and appendix developed under paragraphs (2) and (3).

(B) COMMENT PERIOD.—The public comment period shall be 90 days.

(5) SUBMISSION OF FINAL LIST TO CONGRESS; PUBLICATION.—Not later than 120 days after the date of the close of the comment period under paragraph (4), the Secretary shall—

(A) submit a final deauthorization list and an appendix to the final deauthorization list in a report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives; and

(B) publish the final deauthorization list and the appendix to the final deauthorization list in the Federal Register.

(d) DEAUTHORIZATION; CONGRESSIONAL REVIEW.—

(1) IN GENERAL.—After the expiration of the 180-day period beginning on the date of submission of the final deauthorization list and appendix under subsection (c), a project or separable element of a project identified in the final deauthorization list is hereby deauthorized, unless Congress passes a joint resolution disapproving the final deauthorization list prior to the end of such period.

(2) NON-FEDERAL CONTRIBUTIONS.—

(A) IN GENERAL.—A project or separable element of a project identified in the final deauthorization list under subsection (c) shall not be deauthorized under this subsection if, before the expiration of the 180-day period referred to in paragraph (1), the non-Federal interest for the project or separable element of the project provides sufficient funds to complete the project or separable element of the project.

(B) TREATMENT OF PROJECTS.—Notwithstanding subparagraph (A), each project and separable element of a project identified in the final deauthorization list shall be treated as deauthorized for purposes of the aggregate deauthorization amount specified in subsection (c)(2)(A).

(3) PROJECTS IDENTIFIED IN APPENDIX.—A project or separable element of a project identified in the appendix to the final deauthorization list shall remain subject to future deauthorization by Congress.

(e) SPECIAL RULE FOR PROJECTS RECEIVING FUNDS FOR POST-AUTHORIZATION STUDY.—A project or separable element of a project may not be identified on the interim deauthorization list developed under subsection (b), or the final deauthorization list developed under subsection (c), if the project or separable element received funding for a post-authorization study during the current fiscal year or any of the 6 preceding fiscal years.

(f) GENERAL PROVISIONS.—

(1) DEFINITIONS.—In this section, the following definitions apply:

(A) POST-AUTHORIZATION STUDY.—The term “post-authorization study” means—

(i) a feasibility report developed under section 905 of the Water Resources Development Act of 1986 (33 U.S.C. 2282);

(ii) a feasibility study, as defined in section 105(d) of the Water Resources Development Act of 1986 (33 U.S.C. 2215(d)); or

(iii) a review conducted under section 216 of the Flood Control Act of 1970 (33 U.S.C. 549a), including an initial appraisal that—

(I) demonstrates a Federal interest; and

(II) requires additional analysis for the project or separable element.

(B) WATER RESOURCES DEVELOPMENT PROJECT.—The term “water resources development project” includes an environmental infrastructure assistance project or program of the Corps of Engineers.

(2) TREATMENT OF PROJECT MODIFICATIONS.—For purposes of this section, if an authorized water resources development project or separable element of the project has been modified by an Act of Congress, the date of the authorization of the

project or separable element shall be deemed to be the date of the most recent modification.

(g) REPEAL.—Subsection (a) and subsections (c) through (f) of section 6001 of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 579b) are repealed.

33 USC 579c–1.

**SEC. 1302. BACKLOG PREVENTION.**

(a) PROJECT DEAUTHORIZATION.—

(1) IN GENERAL.—A water resources development project, or separable element of such a project, authorized for construction by this Act shall not be authorized after the last day of the 10-year period beginning on the date of enactment of this Act unless—

(A) funds have been obligated for construction of, or a post-authorization study for, such project or separable element during that period; or

(B) the authorization contained in this Act has been modified by a subsequent Act of Congress.

(2) IDENTIFICATION OF PROJECTS.—Not later than 60 days after the expiration of the 10-year period referred to in paragraph (1), the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that identifies the projects deauthorized under paragraph (1).

(b) REPORT TO CONGRESS.—Not later than 60 days after the expiration of the 12-year period beginning on the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, and make available to the public, a report that contains—

(1) a list of any water resources development projects authorized by this Act for which construction has not been completed during that period;

(2) a description of the reasons the projects were not completed;

(3) a schedule for the completion of the projects based on expected levels of appropriations; and

(4) a 5-year and 10-year projection of construction backlog and any recommendations to Congress regarding how to mitigate current problems and the backlog.

**SEC. 1303. VALDEZ, ALASKA.**

(a) IN GENERAL.—Subject to subsection (b), the portion of the project for navigation, Valdez, Alaska, identified as Tract G, Harbor Subdivision, shall not be subject to navigational servitude beginning on the date of enactment of this Act.

(b) ENTRY BY FEDERAL GOVERNMENT.—The Federal Government may enter upon the property referred to in subsection (a) to carry out any required operation and maintenance of the general navigation features of the project referred to in subsection (a).

**SEC. 1304. LOS ANGELES COUNTY DRAINAGE AREA, LOS ANGELES COUNTY, CALIFORNIA.**

(a) IN GENERAL.—The Secretary shall—

(1) prioritize the updating of the water control manuals for control structures for the project for flood control, Los Angeles County Drainage Area, Los Angeles County, California,



authorized by section 101(b) of the Water Resources Development Act of 1990 (Public Law 101–640; 104 Stat. 4611); and

(2) integrate and incorporate into the project seasonal operations for water conservation and water supply.

(b) PARTICIPATION.—The update referred to in subsection (a) shall be done in coordination with all appropriate Federal agencies, elected officials, and members of the public.

**SEC. 1305. SUTTER BASIN, CALIFORNIA.**

(a) IN GENERAL.—The separable element constituting the locally preferred plan increment reflected in the report of the Chief of Engineers dated March 12, 2014, and authorized for construction in item 8 of the table contained in section 7002(2) of the Water Resources Reform and Development Act of 2014 (Public Law 113–121; 128 Stat. 1366) is no longer authorized beginning on the date of enactment of this Act.

(b) SAVINGS PROVISIONS.—The deauthorization under subsection (a) does not affect—

(1) the national economic development plan separable element reflected in the report of the Chief of Engineers dated March 12, 2014, and authorized for construction in item 8 of the table contained in section 7002(2) of the Water Resources Reform and Development Act of 2014 (Public Law 113–121; 128 Stat. 1366); or

(2) previous authorizations providing for the Sacramento River and major and minor tributaries project, including—

(A) section 2 of the Act of March 1, 1917 (39 Stat. 949, chapter 144);

(B) section 10 of the Act of December 22, 1944 (58 Stat. 900, chapter 665);

(C) section 204 of the Flood Control Act of 1950 (64 Stat. 177, chapter 188); and

(D) any other Acts relating to the authorization for the Sacramento River and major and minor tributaries project along the Feather River right bank between levee stationing 1483+33 and levee stationing 2368+00.

**SEC. 1306. ESSEX RIVER, MASSACHUSETTS.**

(a) DEAUTHORIZATION.—The portions of the project for navigation, Essex River, Massachusetts, authorized by the Act of July 13, 1892 (27 Stat. 88, chapter 158), and modified by the Act of March 3, 1899 (30 Stat. 1121, chapter 425), and the Act of March 2, 1907 (34 Stat. 1073, chapter 2509), that do not lie within the areas described in subsection (b) are no longer authorized beginning on the date of enactment of this Act.

(b) DESCRIPTION OF PROJECT AREAS.—The areas described in this subsection are as follows: Beginning at a point N3056139.82 E851780.21, thence southwesterly about 156.88 feet to a point N3055997.75 E851713.67; thence southwesterly about 64.59 feet to a point N3055959.37 E851661.72; thence southwesterly about 145.14 feet to a point N3055887.10 E851535.85; thence southwesterly about 204.91 feet to a point N3055855.12 E851333.45; thence northwesterly about 423.50 feet to a point N3055976.70 E850927.78; thence northwesterly about 58.77 feet to a point N3056002.99 E850875.21; thence northwesterly about 240.57 feet to a point N3056232.82 E850804.14; thence northwesterly about 203.60 feet to a point N3056435.41 E850783.93; thence northwesterly about 78.63 feet to a point N3056499.63 E850738.56; thence northwesterly

about 60.00 feet to a point N3056526.30 E850684.81; thence southwesterly about 85.56 feet to a point N3056523.33 E850599.31; thence southwesterly about 36.20 feet to a point N3056512.37 E850564.81; thence southwesterly about 80.10 feet to a point N3056467.08 E850498.74; thence southwesterly about 169.05 feet to a point N3056334.36 E850394.03; thence northwesterly about 48.52 feet to a point N3056354.38 E850349.83; thence northeasterly about 83.71 feet to a point N3056436.35 E850366.84; thence northeasterly about 212.38 feet to a point N3056548.70 E850547.07; thence northeasterly about 47.60 feet to a point N3056563.12 E850592.43; thence northeasterly about 101.16 feet to a point N3056566.62 E850693.53; thence southeasterly about 80.22 feet to a point N3056530.97 E850765.40; thence southeasterly about 99.29 feet to a point N3056449.88 E850822.69; thence southeasterly about 210.12 feet to a point N3056240.79 E850843.54; thence southeasterly about 219.46 feet to a point N3056031.13 E850908.38; thence southeasterly about 38.23 feet to a point N3056014.02 E850942.57; thence southeasterly about 410.93 feet to a point N3055896.06 E851336.21; thence northeasterly about 188.43 feet to a point N3055925.46 E851522.33; thence northeasterly about 135.47 feet to a point N3055992.91 E851639.80; thence northeasterly about 52.15 feet to a point N3056023.90 E851681.75; thence northeasterly about 91.57 feet to a point N3056106.82 E851720.59.

**SEC. 1307. PORT OF CASCADE LOCKS, OREGON.**

(a) **EXTINGUISHMENT OF PORTIONS OF EXISTING FLOWAGE EASEMENT.**—With respect to the properties described in subsection (b), beginning on the date of enactment of this Act, the flowage easements described in subsection (c) are extinguished above elevation 82.2 feet (NGVD29), the ordinary high water line.

(b) **AFFECTED PROPERTIES.**—The properties described in this subsection, as recorded in Hood River County, Oregon, are as follows:

(1) Lots 3, 4, 5, and 7 of the “Port of Cascade Locks Business Park” subdivision, Instrument Number 2014–00436.

(2) Parcels 1, 2, and 3 of Hood River County Partition, Plat Number 2008–25P.

(c) **FLOWAGE EASEMENTS.**—The flowage easements described in this subsection are identified as Tracts 302E–1 and 304E–1 on the easement deeds recorded as instruments in Hood River County, Oregon, and described as follows:

(1) A flowage easement dated October 3, 1936, recorded December 1, 1936, book 25, page 531 (Records of Hood River County, Oregon), in favor of the United States (302E–1–Perpetual Flowage Easement from 10/5/37, 10/5/36, and 10/3/36; previously acquired as Tracts OH–36 and OH–41 and a portion of Tract OH–47).

(2) A flowage easement dated October 5, 1936, recorded October 17, 1936, book 25, page 476 (Records of Hood River County, Oregon), in favor of the United States, affecting that portion below the 94-foot contour line above main sea level (304 E1–Perpetual Flowage Easement from 8/10/37 and 10/3/36; previously acquired as Tract OH–042 and a portion of Tract OH–47).

(d) **FEDERAL LIABILITIES; CULTURAL, ENVIRONMENTAL, AND OTHER REGULATORY REVIEWS.**—

(1) **FEDERAL LIABILITY.**—The United States shall not be liable for any injury caused by the extinguishment of an easement under this section.

(2) **CULTURAL AND ENVIRONMENTAL REGULATORY ACTIONS.**—Nothing in this section establishes any cultural or environmental regulation relating to the properties described in subsection (b).

(e) **EFFECT ON OTHER RIGHTS.**—Nothing in this section affects any remaining right or interest of the Corps of Engineers in the properties described in subsection (b).

**SEC. 1308. CENTRAL DELAWARE RIVER, PHILADELPHIA, PENNSYLVANIA.** 33 USC 5911.

(a) **AREA TO BE DECLARED NONNAVIGABLE.**—Subject to subsection (c), unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that there are substantive objections, those portions of the Delaware River, bounded by the former bulkhead and pierhead lines that were established by the Secretary of War and successors and described as follows, are declared to be nonnavigable waters of the United States:

(1) Piers 70 South through 38 South, encompassing an area bounded by the southern line of Moore Street extended to the northern line of Catherine Street extended, including the following piers: Piers 70, 68, 67, 64, 61–63, 60, 57, 55, 53, 48, 46, 40, and 38.

(2) Piers 24 North through 72 North, encompassing an area bounded by the southern line of Callowhill Street extended to the northern line of East Fletcher Street extended, including the following piers: Piers 24, 25, 27–35, 35.5, 36, 37, 38, 39, 49, 51–52, 53–57, 58–65, 66, 67, 69, 70–72, and Rivercenter.

(b) **PUBLIC INTEREST DETERMINATION.**—The Secretary shall make the public interest determination under subsection (a) separately for each proposed project to be undertaken within the boundaries described in subsection (a), using reasonable discretion, not later than 150 days after the date of submission of appropriate plans for the proposed project.

(c) **LIMITS ON APPLICABILITY.**—The declaration under subsection (a) shall apply only to those parts of the areas described in subsection (a) that are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina and recreation facilities.

**SEC. 1309. HUNTINGDON COUNTY, PENNSYLVANIA.**

(a) **IN GENERAL.**—The Secretary shall—

(1) prioritize the updating of the master plan for the Juniata River and tributaries project, Huntingdon County, Pennsylvania, authorized by section 203 of the Flood Control Act of 1962 (Public Law 87–874; 76 Stat. 1182); and

(2) ensure that alternatives for additional recreation access and development at the project are fully assessed, evaluated, and incorporated as a part of the update.

(b) **PARTICIPATION.**—The update referred to in subsection (a) shall be done in coordination with all appropriate Federal agencies, elected officials, and members of the public.

(c) **INVENTORY.**—In carrying out the update under subsection (a), the Secretary shall include an inventory of those lands that

are not necessary to carry out the authorized purposes of the project.

**SEC. 1310. RIVERCENTER, PHILADELPHIA, PENNSYLVANIA.**

Section 38(c) of the Water Resources Development Act of 1988 (33 U.S.C. 59j-1(c)) is amended—

(1) by striking “(except 30 years from such date of enactment, in the case of the area or any part thereof described in subsection (a)(5))”; and

(2) by adding at the end the following: “Notwithstanding the preceding sentence, the declaration of nonnavigability for the area described in subsection (a)(5), or any part thereof, shall not expire.”.

**SEC. 1311. SALT CREEK, GRAHAM, TEXAS.**

(a) **IN GENERAL.**—The project for flood control, environmental restoration, and recreation, Salt Creek, Graham, Texas, authorized by section 101(a)(30) of the Water Resources Development Act of 1999 (Public Law 106-53; 113 Stat. 278), is no longer authorized as a Federal project beginning on the date of enactment of this Act.

(b) **CERTAIN PROJECT-RELATED CLAIMS.**—The non-Federal interest for the project shall hold and save the United States harmless from any claim that has arisen, or that may arise, in connection with the project.

(c) **TRANSFER.**—The Secretary is authorized to transfer any land acquired by the Federal Government for the project on behalf of the non-Federal interest that remains in Federal ownership on or after the date of enactment of this Act to the non-Federal interest.

(d) **REVERSION.**—If the Secretary determines that land transferred under subsection (c) ceases to be owned by the public, all right, title, and interest in and to the land and improvements thereon shall revert, at the discretion of the Secretary, to the United States.

**SEC. 1312. TEXAS CITY SHIP CHANNEL, TEXAS CITY, TEXAS.**

(a) **IN GENERAL.**—The portion of the Texas City Ship Channel, Texas City, Texas, described in subsection (b) shall not be subject to navigational servitude beginning on the date of enactment of this Act.

(b) **DESCRIPTION.**—The portion of the Texas City Ship Channel described in this subsection is a tract or parcel containing 393.53 acres (17,142,111 square feet) of land situated in the City of Texas City Survey, Abstract Number 681, and State of Texas Submerged Lands Tracts 98A and 99A, Galveston County, Texas, said 393.53 acre tract being more particularly described as follows:

(1) Beginning at the intersection of an edge of fill along Galveston Bay with the most northerly east survey line of said City of Texas City Survey, Abstract No. 681, the same being a called 375.75 acre tract patented by the State of Texas to the City of Texas City and recorded in Volume 1941, Page 750 of the Galveston County Deed Records (G.C.D.R.), from which a found U.S. Army Corps of Engineers Brass Cap stamped “R 4-3” set in the top of the Texas City Dike along the east side of Bay Street bears North 56° 14’ 32” West, a distance of 6,045.31 feet and from which a found U.S. Army Corps of Engineers Brass Cap stamped “R 4-2” set in the

top of the Texas City Dike along the east side of Bay Street bears North 49° 13' 20" West, a distance of 6,693.64 feet.

(2) Thence, over and across said State Tracts 98A and 99A and along the edge of fill along said Galveston Bay, the following 8 courses and distances:

(A) South 75° 49' 13" East, a distance of 298.08 feet to an angle point of the tract herein described.

(B) South 81° 16' 26" East, a distance of 170.58 feet to an angle point of the tract herein described.

(C) South 79° 20' 31" East, a distance of 802.34 feet to an angle point of the tract herein described.

(D) South 75° 57' 32" East, a distance of 869.68 feet to a point for the beginning of a non-tangent curve to the right.

(E) Easterly along said non-tangent curve to the right having a radius of 736.80 feet, a central angle of 24° 55' 59", a chord of South 68° 47' 35" East – 318.10 feet, and an arc length of 320.63 feet to a point for the beginning of a non-tangent curve to the left.

(F) Easterly along said non-tangent curve to the left having a radius of 373.30 feet, a central angle of 31° 57' 42", a chord of South 66° 10' 42" East – 205.55 feet, and an arc length of 208.24 feet to a point for the beginning of a non-tangent curve to the right.

(G) Easterly along said non-tangent curve to the right having a radius of 15,450.89 feet, a central angle of 02° 04' 10", a chord of South 81° 56' 20" East – 558.04 feet, and an arc length of 558.07 feet to a point for the beginning of a compound curve to the right and the northeasterly corner of the tract herein described.

(H) Southerly along said compound curve to the right and the easterly line of the tract herein described, having a radius of 1,425.00 feet, a central angle of 133° 08' 00", a chord of South 14° 20' 15" East – 2,614.94 feet, and an arc length of 3,311.15 feet to a point on a line lying 125.00 feet northerly of and parallel with the centerline of an existing levee for the southeasterly corner of the tract herein described.

(3) Thence, continuing over and across said State Tracts 98A and 99A and along lines lying 125.00 feet northerly of, parallel, and concentric with the centerline of said existing levee, the following 12 courses and distances:

(A) North 78° 01' 58" West, a distance of 840.90 feet to an angle point of the tract herein described.

(B) North 76° 58' 35" West, a distance of 976.66 feet to an angle point of the tract herein described.

(C) North 76° 44' 33" West, a distance of 1,757.03 feet to a point for the beginning of a tangent curve to the left.

(D) Southwesterly, along said tangent curve to the left having a radius of 185.00 feet, a central angle of 82° 27' 32", a chord of South 62° 01' 41" West – 243.86 feet, and an arc length of 266.25 feet to a point for the beginning of a compound curve to the left.

(E) Southerly, along said compound curve to the left having a radius of 4,535.58 feet, a central angle of 11° 06' 58", a chord of South 15° 14' 26" West – 878.59 feet,

and an arc length of 879.97 feet to an angle point of the tract herein described.

(F) South  $64^{\circ} 37' 11''$  West, a distance of 146.03 feet to an angle point of the tract herein described.

(G) South  $67^{\circ} 08' 21''$  West, a distance of 194.42 feet to an angle point of the tract herein described.

(H) North  $34^{\circ} 48' 22''$  West, a distance of 789.69 feet to an angle point of the tract herein described.

(I) South  $42^{\circ} 47' 10''$  West, a distance of 161.01 feet to an angle point of the tract herein described.

(J) South  $42^{\circ} 47' 10''$  West, a distance of 144.66 feet to a point for the beginning of a tangent curve to the right.

(K) Westerly, along said tangent curve to the right having a radius of 310.00 feet, a central angle of  $59^{\circ} 50' 28''$ , a chord of South  $72^{\circ} 42' 24''$  West – 309.26 feet, and an arc length of 323.77 feet to an angle point of the tract herein described.

(L) North  $77^{\circ} 22' 21''$  West, a distance of 591.41 feet to the intersection of said parallel line with the edge of fill adjacent to the easterly edge of the Texas City Turning Basin for the southwesterly corner of the tract herein described, from which a found U.S. Army Corps of Engineers Brass Cap stamped “SWAN 2” set in the top of a concrete column set flush in the ground along the north bank of Swan Lake bears South  $20^{\circ} 51' 58''$  West, a distance of 4,862.67 feet.

(4) Thence, over and across said City of Texas City Survey and along the edge of fill adjacent to the easterly edge of said Texas City Turning Basin, the following 18 courses and distances:

(A) North  $01^{\circ} 34' 19''$  East, a distance of 57.40 feet to an angle point of the tract herein described.

(B) North  $05^{\circ} 02' 13''$  West, a distance of 161.85 feet to an angle point of the tract herein described.

(C) North  $06^{\circ} 01' 56''$  East, a distance of 297.75 feet to an angle point of the tract herein described.

(D) North  $06^{\circ} 18' 07''$  West, a distance of 71.33 feet to an angle point of the tract herein described.

(E) North  $07^{\circ} 21' 09''$  West, a distance of 122.45 feet to an angle point of the tract herein described.

(F) North  $26^{\circ} 41' 15''$  West, a distance of 46.02 feet to an angle point of the tract herein described.

(G) North  $01^{\circ} 31' 59''$  West, a distance of 219.78 feet to an angle point of the tract herein described.

(H) North  $15^{\circ} 54' 07''$  West, a distance of 104.89 feet to an angle point of the tract herein described.

(I) North  $04^{\circ} 00' 34''$  East, a distance of 72.94 feet to an angle point of the tract herein described.

(J) North  $06^{\circ} 46' 38''$  West, a distance of 78.89 feet to an angle point of the tract herein described.

(K) North  $12^{\circ} 07' 59''$  West, a distance of 182.79 feet to an angle point of the tract herein described.

(L) North  $20^{\circ} 50' 47''$  West, a distance of 105.74 feet to an angle point of the tract herein described.

(M) North  $02^{\circ} 02' 04''$  West, a distance of 184.50 feet to an angle point of the tract herein described.

(N) North  $08^{\circ} 07' 11''$  East, a distance of 102.23 feet to an angle point of the tract herein described.

(O) North  $08^{\circ} 16' 00''$  West, a distance of 213.45 feet to an angle point of the tract herein described.

(P) North  $03^{\circ} 15' 16''$  West, a distance of 336.45 feet to a point for the beginning of a non-tangent curve to the left.

(Q) Northerly along said non-tangent curve to the left having a radius of 896.08 feet, a central angle of  $14^{\circ} 00' 05''$ , a chord of North  $09^{\circ} 36' 03''$  West – 218.43 feet, and an arc length of 218.97 feet to a point for the beginning of a non-tangent curve to the right.

(R) Northerly along said non-tangent curve to the right having a radius of 483.33 feet, a central angle of  $19^{\circ} 13' 34''$ , a chord of North  $13^{\circ} 52' 03''$  East – 161.43 feet, and an arc length of 162.18 feet to a point for the north-westerly corner of the tract herein described.

(5) Thence, continuing over and across said City of Texas City Survey, and along the edge of fill along said Galveston Bay, the following 15 courses and distances:

(A) North  $30^{\circ} 45' 02''$  East, a distance of 189.03 feet to an angle point of the tract herein described.

(B) North  $34^{\circ} 20' 49''$  East, a distance of 174.16 feet to a point for the beginning of a non-tangent curve to the right.

(C) Northeasterly along said non-tangent curve to the right having a radius of 202.01 feet, a central angle of  $25^{\circ} 53' 37''$ , a chord of North  $33^{\circ} 14' 58''$  East – 90.52 feet, and an arc length of 91.29 feet to a point for the beginning of a non-tangent curve to the left.

(D) Northeasterly along said non-tangent curve to the left having a radius of 463.30 feet, a central angle of  $23^{\circ} 23' 57''$ , a chord of North  $48^{\circ} 02' 53''$  East – 187.90 feet, and an arc length of 189.21 feet to a point for the beginning of a non-tangent curve to the right.

(E) Northeasterly along said non-tangent curve to the right having a radius of 768.99 feet, a central angle of  $16^{\circ} 24' 19''$ , a chord of North  $43^{\circ} 01' 40''$  East – 219.43 feet, and an arc length of 220.18 feet to an angle point of the tract herein described.

(F) North  $38^{\circ} 56' 50''$  East, a distance of 126.41 feet to an angle point of the tract herein described.

(G) North  $42^{\circ} 59' 50''$  East, a distance of 128.28 feet to a point for the beginning of a non-tangent curve to the right.

(H) Northerly along said non-tangent curve to the right having a radius of 151.96 feet, a central angle of  $68^{\circ} 36' 31''$ , a chord of North  $57^{\circ} 59' 42''$  East – 171.29 feet, and an arc length of 181.96 feet to a point for the most northerly corner of the tract herein described.

(I) South  $77^{\circ} 14' 49''$  East, a distance of 131.60 feet to an angle point of the tract herein described.

(J) South  $84^{\circ} 44' 18''$  East, a distance of 86.58 feet to an angle point of the tract herein described.

(K) South  $58^{\circ} 14' 45''$  East, a distance of 69.62 feet to an angle point of the tract herein described.

(L) South 49° 44' 51" East, a distance of 149.00 feet to an angle point of the tract herein described.

(M) South 44° 47' 21" East, a distance of 353.77 feet to a point for the beginning of a non-tangent curve to the left.

(N) Easterly along said non-tangent curve to the left having a radius of 253.99 feet, a central angle of 98° 53' 23", a chord of South 83° 28' 51" East – 385.96 feet, and an arc length of 438.38 feet to an angle point of the tract herein described.

(O) South 75° 49' 13" East, a distance of 321.52 feet to the point of beginning and containing 393.53 acres (17,142,111 square feet) of land.

**SEC. 1313. STONINGTON HARBOUR, CONNECTICUT.**

The portion of the project for navigation, Stonington Harbour, Connecticut, authorized by the Act of May 23, 1828 (4 Stat. 288, chapter 73), that consists of the inner stone breakwater that begins at coordinates N. 682,146.42, E. 1231,378.69, running north 83.587 degrees west 166.79' to a point N. 682,165.05, E. 1,231,212.94, running north 69.209 degrees west 380.89' to a point N. 682,300.25, E. 1,230,856.86, is no longer authorized as a Federal project beginning on the date of enactment of this Act.

**SEC. 1314. RED RIVER BELOW DENISON DAM, TEXAS, OKLAHOMA, ARKANSAS, AND LOUISIANA.**

The portion of the project for flood control with respect to the Red River below Denison Dam, Texas, Oklahoma, Arkansas, and Louisiana, authorized by section 10 of the Flood Control Act of 1946 (60 Stat. 647, chapter 596), consisting of the portion of the West Agurs Levee that begins at lat. 32° 32' 50.86" N., by long. 93° 46' 16.82" W., and ends at lat. 32° 31' 22.79" N., by long. 93° 45' 2.47" W., is no longer authorized beginning on the date of enactment of this Act.

**SEC. 1315. GREEN RIVER AND BARREN RIVER, KENTUCKY.**

(a) IN GENERAL.—Beginning on the date of enactment of this Act, commercial navigation at the locks and dams identified in the report of the Chief of Engineers entitled "Green River Locks and Dams 3, 4, 5, and 6 and Barren River Lock and Dam 1, Kentucky" and dated April 30, 2015, shall no longer be authorized, and the land and improvements associated with the locks and dams shall be disposed of—

(1) consistent with this section; and

(2) subject to such terms and conditions as the Secretary determines to be necessary and appropriate in the public interest.

(b) DISPOSITION.—

(1) GREEN RIVER LOCK AND DAM 3.—The Secretary shall convey to the Rochester Dam Regional Water Commission all right, title, and interest of the United States in and to the land associated with Green River Lock and Dam 3, located in Ohio County and Muhlenberg County, Kentucky, together with any improvements on the land.

(2) GREEN RIVER LOCK AND DAM 4.—The Secretary shall convey to Butler County, Kentucky, all right, title, and interest of the United States in and to the land associated with Green



River Lock and Dam 4, located in Butler County, Kentucky, together with any improvements on the land.

(3) GREEN RIVER LOCK AND DAM 5.—The Secretary shall convey to the State of Kentucky, a political subdivision of the State of Kentucky, or a nonprofit, nongovernmental organization all right, title, and interest of the United States in and to the land associated with Green River Lock and Dam 5, located in Edmonson County, Kentucky, together with any improvements on the land, for the purposes of—

(A) removing Lock and Dam 5 from the river at the earliest feasible time; and

(B) making the land available for conservation and public recreation, including river access.

(4) GREEN RIVER LOCK AND DAM 6.—

(A) IN GENERAL.—The Secretary shall transfer to the Secretary of the Interior administrative jurisdiction over the portion of the land associated with Green River Lock and Dam 6, Edmonson County, Kentucky, that is located on the left descending bank of the Green River, together with any improvements on the land, for inclusion in Mammoth Cave National Park.

(B) TRANSFER TO THE STATE OF KENTUCKY.—The Secretary shall convey to the State of Kentucky all right, title, and interest of the United States in and to the portion of the land associated with Green River Lock and Dam 6, Edmonson County, Kentucky, that is located on the right descending bank of the Green River, together with any improvements on the land, for use by the Department of Fish and Wildlife Resources of the State of Kentucky for the purposes of—

(i) removing Lock and Dam 6 from the river at the earliest feasible time; and

(ii) making the land available for conservation and public recreation, including river access.

(5) BARREN RIVER LOCK AND DAM 1.—The Secretary shall convey to the State of Kentucky, all right, title, and interest of the United States in and to the land associated with Barren River Lock and Dam 1, located in Warren County, Kentucky, together with any improvements on the land, for use by the Department of Fish and Wildlife Resources of the State of Kentucky for the purposes of—

(A) removing Lock and Dam 1 from the river at the earliest feasible time; and

(B) making the land available for conservation and public recreation, including river access.

(c) CONDITIONS.—

(1) IN GENERAL.—The exact acreage and legal description of any land to be disposed of, transferred, or conveyed under this section shall be determined by a survey satisfactory to the Secretary.

(2) QUITCLAIM DEED.—A conveyance under paragraph (1), (2), (4), or (5) of subsection (b) shall be accomplished by quitclaim deed and without consideration.

(3) ADMINISTRATIVE COSTS.—The Secretary shall be responsible for all administrative costs associated with a transfer or conveyance under this section, including the costs of a survey carried out under paragraph (1).

(4) REVERSION.—If the Secretary determines that the land conveyed under this section is not used by a non-Federal entity for a purpose that is consistent with the purpose of the conveyance, all right, title, and interest in and to the land, including any improvements on the land, shall revert, at the discretion of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the land.

**SEC. 1316. HANNIBAL SMALL BOAT HARBOR, HANNIBAL, MISSOURI.**

The project for navigation at Hannibal Small Boat Harbor on the Mississippi River, Hannibal, Missouri, authorized by section 101 of the River and Harbor Act of 1950 (64 Stat. 166, chapter 188), is no longer authorized beginning on the date of enactment of this Act, and any maintenance requirements associated with the project are terminated.

**SEC. 1317. LAND TRANSFER AND TRUST LAND FOR MUSCOGEE (CREEK) NATION.**

(a) TRANSFER.—

(1) IN GENERAL.—Subject to paragraph (2) and for the consideration described in subsection (c), the Secretary shall transfer to the Secretary of the Interior the land described in subsection (b) to be held in trust for the benefit of the Muscogee (Creek) Nation.

(2) CONDITIONS.—The land transfer under this subsection shall be subject to the following conditions:

(A) The transfer—

(i) shall not interfere with the Corps of Engineers operation of the Eufaula Lake Project or any other authorized civil works project; and

(ii) shall be subject to such other terms and conditions as the Secretary determines to be necessary and appropriate to ensure the continued operation of the Eufaula Lake Project or any other authorized civil works project.

(B) The Secretary shall retain the right to inundate with water the land transferred to the Secretary of the Interior under this subsection as necessary to carry out an authorized purpose of the Eufaula Lake Project or any other civil works project.

(C) No gaming activities may be conducted on the land transferred under this subsection.

(b) LAND DESCRIPTION.—

(1) IN GENERAL.—The land to be transferred pursuant to subsection (a) is the approximately 18.38 acres of land located in the Northwest Quarter (NW 1/4) of sec. 3, T. 10 N., R. 16 E., McIntosh County, Oklahoma, generally depicted as “USACE” on the map entitled “Muscogee (Creek) Nation Proposed Land Acquisition” and dated October 16, 2014.

(2) SURVEY.—The exact acreage and legal description of the land to be transferred under subsection (a) shall be determined by a survey satisfactory to the Secretary and the Secretary of the Interior.

(c) CONSIDERATION.—The Muscogee (Creek) Nation shall pay—

(1) to the Secretary an amount that is equal to the fair market value of the land transferred under subsection (a), as determined by the Secretary, which funds may be accepted and expended by the Secretary; and

(2) all costs and administrative expenses associated with the transfer of land under subsection (a), including the costs of—

(A) the survey under subsection (b)(2);

(B) compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(C) any coordination necessary with respect to requirements related to endangered species, cultural resources, clean water, and clean air.

**SEC. 1318. CAMERON COUNTY, TEXAS.**

(a) **RELEASE.**—As soon as practicable after the date of enactment of this Act, the Secretary shall execute and file in the appropriate office a deed of release, amended deed, or other appropriate instrument effectuating the release of the interests of the United States in certain tracts of land located in Cameron County, Texas, as described in subsection (d).

(b) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require that any release under this section be subject to such additional terms and conditions as the Secretary considers appropriate and necessary to protect the interests of the United States.

(c) **COSTS OF CONVEYANCE.**—The Brownsville Navigation District shall be responsible for all reasonable and necessary costs, including real estate transaction and environmental documentation costs, associated with the releases.

(d) **DESCRIPTION.**—The Secretary shall release all or portions of the interests in the following tracts as determined by a survey to be paid for by the Brownsville Navigation District, that is satisfactory to the Secretary:

(1) Tract No. 1: Being 1,277.80 Acres as conveyed by the Brownsville Navigation District of Cameron County, Texas, to the United States of America by instrument dated September 22, 1932, and recorded at Volume 238, pages 578 through 580, in the Deed Records of Cameron County, Texas, to be released and abandoned in its entirety, save and except approximately 361.03 Acres, comprised of the area designated by the U.S. Army Corps of Engineers as required for the project known as Brazos Island Harbor Deepening, and further save and except approximately 165.56 Acres for the existing Dredged Material Placement Area No. 4A1.

(2) Tract No. 2: Being 842.28 Acres as condemned by the United States of America by the Final Report of Commissioners dated May 6, 1938, and recorded at Volume 281, pages 486 through 488, in the Deed Records of Cameron County, Texas, to be released and abandoned in its entirety, save and except approximately 178.15 Acres comprised of a strip 562 feet in width, being the area designated by the U.S. Army Corps of Engineers as required for the project known as Brazos Island Harbor Deepening, further save and except approximately 76.95 Acres for the existing Dredged Material Placement Area No. 4A1, and further save and except approximately 74.40 Acres for the existing Dredged Material Placement Area No. 4B1.

(3) Tract No. 3: Being 362.00 Acres as conveyed by the Manufacturing and Distributing University to the United States of America by instrument dated March 3, 1936, and recorded at Volume “R”, page 123, in the Miscellaneous Deed Records

of Cameron County, Texas, to be released and abandoned in its entirety.

(4) Tract No. 4: Being 9.48 Acres as conveyed by the Brownsville Navigation District of Cameron County, Texas, to the United States of America by instrument dated January 23, 1939, and recorded at Volume 293, pages 115 through 118, in the Deed Records of Cameron County, Texas (said 9.48 Acres are identified in said instrument as the “Second Tract”), to be released and abandoned in its entirety, save and except approximately 1.97 Acres, comprised of the area designated by the U.S. Army Corps of Engineers as required for the project known as Brazos Island Harbor Deepening, plus 5.0 feet.

(5) Tract No. 5: Being 10.91 Acres as conveyed by the Brownsville Navigation District of Cameron County, Texas, by instrument dated March 6, 1939, and recorded at Volume 293, pages 113 through 115, in the Deed Records of Cameron County, Texas (said 10.91 Acres are identified in said instrument as “Third Tract”), to be released and abandoned in its entirety, save and except approximately 0.36 Acre, comprised of the area designated by the U.S. Army Corps of Engineers as required for the project known as Brazos Island Harbor Deepening.

(6) Tract No. 9: Being 552.82 Acres as condemned by the United States of America by the Final Report of Commissioners dated May 6, 1938, and recorded at Volume 281, pages 483 through 486, in the Deed Records of Cameron County, Texas, to be released and abandoned in its entirety, save and except approximately 84.59 Acres, comprised of the area designated by the U.S. Army Corps of Engineers as required for the project known as Brazos Island Harbor Deepening.

(7) Tract No. 10: Being 325.02 Acres as condemned by the United States of America by the Final Report of Commissioners dated May 7, 1935, and recorded at Volume 281, pages 476 through 483, in the Deed Records of Cameron County, Texas, to be released and abandoned in its entirety, save and except approximately 76.81 Acres, comprised of the area designated by the U.S. Army Corps of Engineers as required for the project known as Brazos Island Harbor Deepening.

(8) Tract No. 11: Being 8.85 Acres in as conveyed by the Brownsville Navigation District of Cameron County, Texas, to the United States of America by instrument dated January 23, 1939, and recorded at Volume 293, Pages 115 through 118, in the Deed Records of Cameron County, Texas (said 8.85 Acres are identified in said instrument as the “First Tract”), to be released and abandoned in its entirety, save and except approximately 0.30 Acres, comprised of the area within the project known as Brazos Island Harbor Deepening, plus 5.0 feet.

(9) Tract No. A100E: Being 13.63 Acres in as conveyed by the Brownsville Navigation District of Cameron County, Texas, to the United States of America by instrument dated September 30, 1947, and recorded at Volume 427, page 1 through 4 in the Deed Records of Cameron County, to be released and abandoned in its entirety, save and except approximately 6.60 Acres, comprised of the area designated by the

U.S. Army Corps of Engineers as required for the existing project known as Brazos Island Harbor, plus 5.0 feet.

(10) Tract No. 122E: Being 31.4 Acres as conveyed by the Brownsville Navigation District of Cameron County, Texas, to the United States of America by instrument dated December 11, 1963 and recorded at Volume 756, page 393 in the Deed Records of Cameron County, Texas, to be released and abandoned in its entirety, save and except approximately 4.18 Acres in Share 31 of the Espiritu Santo Grant in Cameron County, Texas, and further save and except approximately 2.04 Acres in Share 7 of the San Martin Grant in Cameron County, Texas, being portions of the area designated by the U.S. Army Corps of Engineers as required for the current project known as Brazos Island Harbor, plus 5.0 feet.

**SEC. 1319. NEW SAVANNAH BLUFF LOCK AND DAM, GEORGIA AND SOUTH CAROLINA.**

(a) **DEFINITIONS.**—In this section, the following definitions apply:

(1) **NEW SAVANNAH BLUFF LOCK AND DAM.**—The term “New Savannah Bluff Lock and Dam” means—

(A) the lock and dam at New Savannah Bluff, Savannah River, Georgia and South Carolina; and

(B) the appurtenant features to the lock and dam, including—

(i) the adjacent approximately 50-acre park and recreation area with improvements made under the project for navigation, Savannah River below Augusta, Georgia, authorized by the first section of the Act of July 3, 1930 (46 Stat. 924), and the first section of the Act of August 30, 1935 (49 Stat. 1032); and

(ii) other land that is part of the project and that the Secretary determines to be appropriate for conveyance under this section.

(2) **PROJECT.**—The term “Project” means the project for navigation, Savannah Harbor expansion, Georgia, authorized by section 7002(1) of the Water Resources Reform and Development Act of 2014 (Public Law 113–121; 128 Stat. 1364).

(b) **DEAUTHORIZATION.**—

(1) **IN GENERAL.**—Effective beginning on the date of enactment of this Act—

(A) the New Savannah Bluff Lock and Dam is deauthorized; and

(B) notwithstanding section 348(1)(2)(B) of the Water Resources Development Act of 2000 (Public Law 106–541; 114 Stat. 2630; 114 Stat. 2763A–228) (as in effect on the day before the date of enactment of this Act) or any other provision of law, the New Savannah Bluff Lock and Dam shall not be conveyed to the city of North Augusta and Aiken County, South Carolina, or any other non-Federal entity.

(2) **REPEAL.**—Section 348 of the Water Resources Development Act of 2000 (Public Law 106–541; 114 Stat. 2630; 114 Stat. 2763A–228) is amended—

(A) by striking subsection (l); and

(B) by redesignating subsections (m) and (n) as subsections (l) and (m), respectively.

## (c) PROJECT MODIFICATIONS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Project is modified to include, as the Secretary determines to be necessary—

(A)(i) repair of the lock wall of the New Savannah Bluff Lock and Dam and modification of the structure such that the structure is able—

(I) to maintain the pool for navigation, water supply, and recreational activities, as in existence on the date of enactment of this Act; and

(II) to allow safe passage over the structure to historic spawning grounds of shortnose sturgeon, Atlantic sturgeon, and other migratory fish; or

(ii)(I) construction at an appropriate location across the Savannah River of a structure that is able to maintain the pool for water supply and recreational activities, as in existence on the date of enactment of this Act; and

(II) removal of the New Savannah Bluff Lock and Dam on completion of construction of the structure; and

(B) conveyance by the Secretary to Augusta-Richmond County, Georgia, of the park and recreation area adjacent to the New Savannah Bluff Lock and Dam, without consideration.

(2) NON-FEDERAL COST SHARE.—The Federal share of the cost of any Project feature constructed pursuant to paragraph (1) shall be not greater than the share as provided by section 7002(1) of the Water Resources Reform and Development Act of 2014 (Public Law 113–121; 128 Stat. 1364) for the most cost-effective fish passage structure.

(3) OPERATION AND MAINTENANCE COSTS.—The Federal share of the costs of operation and maintenance of any Project feature constructed pursuant to paragraph (1) shall be consistent with the cost sharing of the Project as provided by law.

**SEC. 1320. HAMILTON CITY, CALIFORNIA.**

Section 1001(8) of the Water Resources Development Act of 2007 (121 Stat. 1050) is modified to authorize the Secretary to construct the project at a total cost of \$91,000,000, with an estimated Federal cost of \$59,735,061 and an estimated non-Federal cost of \$31,264,939.

**SEC. 1321. CONVEYANCES.**

## (a) PEARL RIVER, MISSISSIPPI AND LOUISIANA.—

(1) IN GENERAL.—The project for navigation, Pearl River, Mississippi and Louisiana, authorized by the first section of the Act of August 30, 1935 (49 Stat. 1033, chapter 831), and section 101 of the River and Harbor Act of 1966 (Public Law 89–789; 80 Stat. 1405), is no longer authorized as a Federal project beginning on the date of enactment of this Act.

## (2) TRANSFER.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Secretary is authorized to convey to a State or local interest, without consideration, all right, title, and interest of the United States in and to—

(i) any land in which the Federal Government has a property interest for the project described in paragraph (1); and

(ii) improvements to the land described in clause

(i).

(B) RESPONSIBILITY FOR COSTS.—The transferee shall be responsible for the payment of all costs and administrative expenses associated with any transfer carried out pursuant to subparagraph (A), including costs associated with any land survey required to determine the exact acreage and legal description of the land and improvements to be transferred.

(C) OTHER TERMS AND CONDITIONS.—A transfer under subparagraph (A) shall be subject to such other terms and conditions as the Secretary determines to be necessary and appropriate to protect the interests of the United States.

(3) REVERSION.—If the Secretary determines that the land and improvements conveyed under paragraph (2) cease to be owned by the public, all right, title, and interest in and to the land and improvements shall revert, at the discretion of the Secretary, to the United States.

(b) SARDIS LAKE, MISSISSIPPI.—

(1) IN GENERAL.—The Secretary is authorized to convey to the lessee, at full fair market value, all right, title, and interest of the United States in and to the property identified in the leases numbered DACW38-1-15-7, DACW38-1-15-33, DACW38-1-15-34, and DACW38-1-15-38, subject to such terms and conditions as the Secretary determines to be necessary and appropriate to protect the interests of the United States.

(2) EASEMENT AND RESTRICTIVE COVENANT.—The conveyance under paragraph (1) shall include—

(A) a restrictive covenant to require the approval of the Secretary for any substantial change in the use of the property; and

(B) a flowage easement.

(c) PENSACOLA DAM AND RESERVOIR, GRAND RIVER, OKLAHOMA.—

(1) IN GENERAL.—Notwithstanding the Act of June 28, 1938 (52 Stat. 1215, chapter 795), as amended by section 3 of the Act of August 18, 1941 (55 Stat. 645, chapter 377), and notwithstanding section 3 of the Act of July 31, 1946 (60 Stat. 744, chapter 710), the Secretary shall convey, by quitclaim deed and without consideration, to the Grand River Dam Authority, an agency of the State of Oklahoma, for flood control purposes, all right, title, and interest of the United States in and to real property under the administrative jurisdiction of the Secretary acquired in connection with the Pensacola Dam project, together with any improvements on the property.

(2) FLOOD CONTROL PURPOSES.—If any interest in the real property described in paragraph (1) ceases to be managed for flood control or other public purposes and is conveyed to a nonpublic entity, the transferee, as part of the conveyance, shall pay to the United States the fair market value for the interest.

(3) NO EFFECT.—Nothing in this subsection—

(A) amends, modifies, or repeals any existing authority vested in the Federal Energy Regulatory Commission; or

(B) amends, modifies, or repeals any authority of the Secretary or the Chief of Engineers pursuant to section 7 of the Act of December 22, 1944 (33 U.S.C. 709).

(d) JOE POOL LAKE, TEXAS.—The Secretary shall accept from the Trinity River Authority of Texas, if received on or before December 31, 2016, \$31,344,841 as payment in full of amounts owed to the United States, including any accrued interest, for the approximately 61,747.1 acre-feet of water supply storage space in Joe Pool Lake, Texas (previously known as Lakeview Lake), for which payment has not commenced under Article 5.a (relating to project investment costs) of contract number DACW63–76–C–0106 as of the date of enactment of this Act.

**SEC. 1322. EXPEDITED CONSIDERATION.**

(a) IN GENERAL.—Section 1011 of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 2341a) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(C) by inserting “restore or” before “prevent the loss”; and

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking “the date of enactment of this Act” and inserting “the date of enactment of the Water Resources Development Act of 2016”; and

(ii) in subparagraph (A)(ii) by striking “that—” and all that follows through “limited reevaluation report”; and

(2) in subsection (b)—

(A) in paragraph (1) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and indenting appropriately;

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(C) in the matter preceding subparagraph (A) (as so redesignated) by striking “For” and inserting the following: “(1) IN GENERAL.—For”; and

(D) by adding at the end the following:

“(2) EXPEDITED CONSIDERATION OF CURRENTLY AUTHORIZED PROGRAMMATIC AUTHORITIES.—Not later than 180 days after the date of enactment of the Water Resources Development Act of 2016, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that contains—

“(A) a list of all programmatic authorities for aquatic ecosystem restoration or improvement of the environment that—

“(i) were authorized or modified in the Water Resources Development Act of 2007 (Public Law 110–114; 121 Stat. 1041) or any subsequent Act; and

“(ii) that meet the criteria described in paragraph (1); and

“(B) a plan for expeditiously completing the projects under the authorities described in subparagraph (A), subject to available funding.”.

(b) EXPEDITED CONSIDERATION.—



(1) EXPEDITED COMPLETION OF FLOOD DAMAGE REDUCTION AND FLOOD RISK MANAGEMENT PROJECTS.—For authorized projects with a primary purpose of flood damage reduction and flood risk management, the Secretary shall provide priority funding for and expedite the completion of the following projects:

(A) Chicagoland Underflow Plan, Illinois, including stage 2 of the McCook Reservoir, as authorized by section 3(a)(5) of the Water Resources Development Act of 1988 (Public Law 100-676; 102 Stat. 4013) and modified by section 319 of the Water Resources Development Act of 1996 (Public Law 104-303; 110 Stat. 3715) and section 501(b) of the Water Resources Development Act of 1999 (Public Law 106-53; 113 Stat. 334).

(B) Cedar River, Cedar Rapids, Iowa, as authorized by section 7002(2)(3) of the Water Resources Reform and Development Act of 2014 (Public Law 113-121; 128 Stat. 1366).

(C) Comite River, Louisiana, authorized as part of the project for flood control, Amite River and Tributaries, Louisiana, by section 101(11) of the Water Resources Development Act of 1992 (Public Law 102-580; 106 Stat. 4802) and modified by section 301(b)(5) of the Water Resources Development Act of 1996 (Public Law 104-303; 110 Stat. 3709) and section 371 of the Water Resources Development Act of 1999 (Public Law 106-53; 113 Stat. 321).

(D) Amite River and Tributaries, Louisiana, East Baton Rouge Parish Watershed, as authorized by section 101(a)(21) of the Water Resources Development Act of 1999 (Public Law 106-53; 113 Stat. 277) and modified by section 116 of title I of division D of Public Law 108-7 (117 Stat. 140) and section 3074 of the Water Resources Development Act of 2007 (Public Law 110-114; 121 Stat. 1124).

(E) The projects described in paragraphs (29) through (33) of section 212(e) of the Water Resources Development Act of 1999 (33 U.S.C. 2332(e)).

(2) EXPEDITED COMPLETION OF FEASIBILITY STUDIES.—The Secretary shall give priority funding and expedite completion of the reports for the following projects, and, if the Secretary determines that a project is justified in the completed report, proceed directly to project preconstruction, engineering, and design in accordance with section 910 of the Water Resources Development Act of 1986 (33 U.S.C. 2287):

(A) The project for navigation, St. George Harbor, Alaska.

(B) The project for flood risk management, Rahway River Basin, New Jersey.

(C) The Hudson-Raritan Estuary Comprehensive Restoration Project.

(D) The project for navigation, Mobile Harbor, Alabama.

(E) The project for flood risk management, Little Colorado River at Winslow, Navajo County, Arizona.

(F) The project for flood risk management, Lower San Joaquin River, California. In carrying out the feasibility study for the project, the Secretary shall include Reclamation District 17 as part of the study.

(G) The project for flood risk management and ecosystem restoration, Sacramento River Flood Control System, California.

(H) The project for hurricane and storm damage risk reduction, Ft. Pierce, Florida.

(I) The project for flood risk management, Des Moines and Raccoon Rivers, Iowa.

(J) The project for navigation, Mississippi River Ship Channel, Louisiana.

(K) The project for flood risk management, North Branch Ecorse Creek, Wayne County, Michigan.

(3) EXPEDITED COMPLETION OF POST-AUTHORIZATION CHANGE REPORT.—The Secretary shall provide priority funding for, and expedite completion of, a post-authorization change report for the project for hurricane and storm damage risk reduction, New Hanover County, North Carolina.

(4) COMPLETION OF PROJECTS UNDER CONSTRUCTION BY NON-FEDERAL INTERESTS.—The Secretary shall expedite review and decision on recommendations for the following projects for flood damage reduction and flood risk management:

(A) Pearl River Basin, Mississippi, authorized by section 401(e)(3) of the Water Resources Development Act of 1986 (Public Law 99–662; 100 Stat. 4132), as modified by section 3104 of the Water Resources Development Act of 2007 (Public Law 110–114; 121 Stat. 1134), submitted to the Secretary under section 211 of the Water Resources Development Act of 1996 (33 U.S.C. 701b–13) (as in effect on the day before the date of enactment of the Water Resources Reform and Development Act of 2014 (Public Law 113–121; 128 Stat. 1193)).

(B) Brays Bayou, Texas, authorized by section 101(a)(21) of the Water Resources Development Act of 1990 (Public Law 101–640; 104 Stat. 4610), as modified by section 211(f)(6) of the Water Resources Development Act of 1996 (33 U.S.C. 701b–13(f)(6)) (as in effect on the day before the date of enactment of the Water Resources Reform and Development Act of 2014 (Public Law 113–121; 128 Stat. 1193)).

## **Subtitle D—Water Resources Infrastructure**

### **SEC. 1401. PROJECT AUTHORIZATIONS.**

The following projects for water resources development and conservation and other purposes, as identified in the reports titled “Report to Congress on Future Water Resources Development” submitted to Congress on January 29, 2015, and January 29, 2016, respectively, pursuant to section 7001 of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 2282d) or otherwise reviewed by Congress, are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, described in the respective reports designated in this section:

(1) NAVIGATION.—

<b>A. State</b>	<b>B. Name</b>	<b>C. Date of Report of Chief of Engi- neers</b>	<b>D. Estimated Costs</b>
1. TX	Brazos Island Harbor	Nov. 3, 2014	Federal: \$121,023,000 Non-Federal: \$89,453,000 Total: \$210,476,000
2. LA	Calcasieu Lock	Dec. 2, 2014	Total: \$17,432,000 (to be derived ½ from the general fund of the Treasury and ½ from the Inland Waterways Trust Fund)
3. NH, ME	Portsmouth Harbor and Piscataqua River	Feb. 8, 2015	Federal: \$16,015,000 Non-Federal: \$5,338,000 Total: \$21,353,000
4. FL	Port Everglades	Jun. 25, 2015	Federal: \$229,770,000 Non-Federal: \$107,233,000 Total: \$337,003,000
5. AK	Little Diomed Harbor	Aug. 10, 2015	Federal: \$26,394,000 Non-Federal: \$2,933,000 Total: \$29,327,000
6. SC	Charleston Harbor	Sep. 8, 2015	Federal: \$231,239,000 Non-Federal: \$271,454,000 Total: \$502,693,000
7. AK	Craig Harbor	Mar. 16, 2016	Federal: \$29,456,000 Non-Federal: \$3,299,000 Total: \$32,755,000
8. PA	Upper Ohio	Sep. 12, 2016	Total: \$2,691,600,000 (to be derived ½ from the general fund of the Treasury and ½ from the Inland Waterways Trust Fund).

## (2) FLOOD RISK MANAGEMENT.—

<b>A. State</b>	<b>B. Name</b>	<b>C. Date of Report of Chief of Engi- neers</b>	<b>D. Estimated Costs</b>
1. TX	Leon Creek Watershed	Jun. 30, 2014	Federal: \$22,145,000 Non-Federal: \$11,925,000 Total: \$34,070,000
2. MO, KS	Armourdale and Central Industrial District Levee Units, Missouri River and Tributaries at Kansas Citys	Jan. 27, 2015	Federal: \$213,271,500 Non-Federal: \$114,838,500 Total: \$328,110,000
3. KS	City of Manhattan	Apr. 30, 2015	Federal: \$16,151,000 Non-Federal: \$8,697,000 Total: \$24,848,000
4. TN	Mill Creek	Oct. 16, 2015	Federal: \$17,950,000 Non-Federal: \$10,860,000 Total: \$28,810,000
5. KS	Upper Turkey Creek Basin	Dec. 22, 2015	Federal: \$25,610,000 Non-Federal: \$13,790,000 Total: \$39,400,000
6. NC	Princeville	Feb. 23, 2016	Federal: \$14,080,000 Non-Federal: \$7,582,000 Total: \$21,662,000
7. CA	American River Common Features	Apr. 26, 2016	Federal: \$890,046,900 Non-Federal: \$705,714,100 Total: \$1,595,761,000

<b>A. State</b>	<b>B. Name</b>	<b>C. Date of Report of Chief of Engi- neers</b>	<b>D. Estimated Costs</b>
8. CA	West Sac- ramento	Apr. 26, 2016	Federal: \$788,861,000 Non-Federal: \$424,772,000 Total: \$1,213,633,000.

## (3) HURRICANE AND STORM DAMAGE RISK REDUCTION.—

<b>A. State</b>	<b>B. Name</b>	<b>C. Date of Report of Chief of Engi- neers</b>	<b>D. Estimated Initial Costs and Estimated Renourishment Costs</b>
1. SC	Colleton Coun- ty	Sep. 5, 2014	Initial Federal: \$14,448,000 Initial Non-Federal: \$7,780,000 Initial Total: \$22,228,000 Renourishment Federal: \$17,491,000 Renourishment Non- Federal: \$17,491,000 Renourishment Total: \$34,982,000
2. FL	Flagler County	Dec. 23, 2014	Initial Federal: \$9,561,000 Initial Non-Federal: \$5,149,000 Initial Total: \$14,710,000 Renourishment Federal: \$15,814,000 Renourishment Non- Federal: \$15,815,000 Renourishment Total: \$31,629,000

<b>A. State</b>	<b>B. Name</b>	<b>C. Date of Report of Chief of Engi- neers</b>	<b>D. Estimated Initial Costs and Estimated Renourishment Costs</b>
3. NC	Carteret Coun- ty	Dec. 23, 2014	Initial Federal: \$25,468,000 Initial Non-Federal: \$13,714,000 Initial Total: \$39,182,000 Renourishment Federal: \$120,428,000 Renourishment Non- Federal: \$120,429,000 Renourishment Total: \$240,857,000
4. NJ	Hereford Inlet to Cape May Inlet, Cape May County	Jan. 23, 2015	Initial Federal: \$14,823,000 Initial Non-Federal: \$7,981,000 Initial Total: \$22,804,000 Renourishment Federal: \$43,501,000 Renourishment Non- Federal: \$43,501,000 Renourishment Total: \$87,002,000
5. LA	West Shore Lake Pont- chartrain	Jun. 12, 2015	Federal: \$483,496,650 Non-Federal: \$260,344,350 Total: \$743,841,000

<b>A. State</b>	<b>B. Name</b>	<b>C. Date of Report of Chief of Engi- neers</b>	<b>D. Estimated Initial Costs and Estimated Renourishment Costs</b>
6. CA	San Diego County	Apr. 26, 2016	Initial Federal: \$20,953,000 Initial Non-Federal: \$11,282,000 Initial Total: \$32,235,000 Renourishment Federal: \$70,785,000 Renourishment Non- Federal: \$70,785,000 Renourishment Total: \$141,570,000.

## (4) ECOSYSTEM RESTORATION.—

<b>A. State</b>	<b>B. Name</b>	<b>C. Date of Report of Chief of Engi- neers</b>	<b>D. Estimated Costs</b>
1. FL	Central Ever- glades	Dec. 23, 2014	Federal: \$993,131,000 Non-Federal: \$991,544,000 Total: \$1,984,675,000
2. WA	Skokomish River	Dec. 14, 2015	Federal: \$13,168,000 Non-Federal: \$7,091,000 Total: \$20,259,000
3. WA	Puget Sound	Sep. 16, 2016	Federal: \$300,009,000 Non-Federal: \$161,543,000 Total: \$461,552,000.

## (5) FLOOD RISK MANAGEMENT AND ECOSYSTEM RESTORATION.—

<b>A. State</b>	<b>B. Name</b>	<b>C. Date of Report of Chief of Engi- neers</b>	<b>D. Estimated Costs</b>
1. IL, WI	Upper Des Plaines River and Tributaries	Jun. 8, 2015	Federal: \$204,860,000 Non-Federal: \$110,642,000 Total: \$315,502,000.

(6) FLOOD RISK MANAGEMENT, ECOSYSTEM RESTORATION,  
AND RECREATION.—

<b>A. State</b>	<b>B. Name</b>	<b>C. Date of Report of Chief of Engi- neers</b>	<b>D. Estimated Costs</b>
1. CA	South San Francisco Bay Shore- line	Dec. 18, 2015	Federal: \$70,511,000 Non-Federal: \$106,689,000 Total: \$177,200,000.

(7) ECOSYSTEM RESTORATION AND RECREATION.—

<b>A. State</b>	<b>B. Name</b>	<b>C. Date of Report of Chief of Engi- neers</b>	<b>D. Estimated Costs</b>
1. OR	Willamette River	Dec. 14, 2015	Federal: \$19,531,000 Non-Federal: \$10,845,000 Total: \$30,376,000
2. CA	Los Angeles River	Dec. 18, 2015	Federal: \$373,413,500 Non-Federal: \$1,046,893,500 Total: \$1,420,307,000.

(8) HURRICANE AND STORM DAMAGE RISK REDUCTION AND  
ECOSYSTEM RESTORATION.—



<b>A. State</b>	<b>B. Name</b>	<b>C. Date of Report of Chief of Engi- neers</b>	<b>D. Estimated Costs</b>
1. LA	Southwest Coastal Lou- isiana	Jul. 29, 2016	Federal: \$2,054,386,100 Non-Federal: \$1,106,207,900 Total: \$3,160,594,000.

## (9) MODIFICATIONS AND OTHER PROJECTS.—

<b>A. State</b>	<b>B. Name</b>	<b>C. Date of Decision Docu- ment</b>	<b>D. Estimated Costs</b>
1. TX	Upper Trinity River	May 21, 2008	Federal: \$526,500,000 Non-Federal: \$283,500,000 Total: \$810,000,000
2. KS, MO	Turkey Creek Basin	May 13, 2016	Federal: \$101,491,650 Non-Federal: \$54,649,350 Total: \$156,141,000
3. KY	Ohio River Shoreline	May 13, 2016	Federal: \$20,309,900 Non-Federal: \$10,936,100 Total: \$31,246,000
4. MO	Blue River Basin	May 13, 2016	Federal: \$36,326,250 Non-Federal: \$12,108,750 Total: \$48,435,000
5. FL	Picayune Strand	Jul. 15, 2016	Federal: \$313,166,000 Non-Federal: \$313,166,000 Total: \$626,332,000

<b>A. State</b>	<b>B. Name</b>	<b>C. Date of Decision Docu- ment</b>	<b>D. Estimated Costs</b>
6. MO	Swope Park Industrial Area, Blue River	Jul. 15, 2016	Federal: \$21,033,350 Non-Federal: \$11,325,650 Total: \$32,359,000
7. AZ	Rio de Flag, Flagstaff	Sep. 21, 2016	Federal: \$66,844,900 Non-Federal: \$36,039,100 Total: \$102,884,000
8. TX	Houston Ship Channel	Nov. 4, 2016	Federal: \$381,773,000 Non-Federal: \$127,425,000 Total: \$509,198,000.

**SEC. 1402. SPECIAL RULES.**

(a) **MILL CREEK.**—The portion of the project for flood risk management, Mill Creek, Tennessee, authorized by section 1401(2) of this Act that consists of measures within the Mill Creek basin shall be carried out pursuant to section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

(b) **LOS ANGELES RIVER.**—The Secretary shall carry out the project for ecosystem restoration and recreation, Los Angeles River, California, authorized by section 1401(7) of this Act substantially in accordance with terms and conditions described in the Report of the Chief of Engineers, dated December 18, 2015, including, notwithstanding section 2008(c) of the Water Resources Development Act of 2007 (Public Law 110–114; 121 Stat. 1074), the recommended cost share.

(c) **UPPER TRINITY RIVER.**—Not more than \$5,500,000 may be expended to carry out recreation features of the Upper Trinity River project, Texas, authorized by section 1401(9) of this Act.

## **TITLE II—WATER AND WASTE ACT OF 2016**

Water and Waste  
Act of 2016.  
42 USC 201 note.

**SEC. 2001. SHORT TITLE.**

This title may be cited as the “Water and Waste Act of 2016”.

42 USC 300j–3d  
note.

**SEC. 2002. DEFINITION OF ADMINISTRATOR.**

In this title, the term “Administrator” means the Administrator of the Environmental Protection Agency.

## Subtitle A—Safe Drinking Water

### SEC. 2101. SENSE OF CONGRESS ON APPROPRIATIONS LEVELS.

It is the sense of Congress that Congress should provide robust funding of capitalization grants to States to fund those States' drinking water treatment revolving loan funds established under section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12) and the State water pollution control revolving funds established under title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.).

### SEC. 2102. PRECONSTRUCTION WORK.

Section 1452(a)(2) of the Safe Drinking Water Act (42 U.S.C. 300j–12(a)(2)) is amended—

(1) in the fifth sentence, by striking “Of the amount” and inserting the following:

“(F) LOAN ASSISTANCE.—Of the amount”;

(2) in the fourth sentence, by striking “The funds” and inserting the following:

“(E) ACQUISITION OF REAL PROPERTY.—The funds under this section”;

(3) in the third sentence, by striking “The funds” and inserting the following:

“(D) WATER TREATMENT LOANS.—The funds under this section”;

(4) in the second sentence, by striking “Financial assistance” and inserting the following:

“(B) LIMITATION.—Financial assistance”;

(5) in the first sentence, by striking “Except” and inserting the following:

“(A) IN GENERAL.—Except”;

(6) in subparagraph (B) (as designated by paragraph (4)), by striking “(not)” and inserting “(including expenditures for planning, design, and associated preconstruction activities, including activities relating to the siting of the facility, but not”;

(7) by inserting after subparagraph (B) (as designated by paragraph (4)) the following:

“(C) SALE OF BONDS.—Funds may also be used by a public water system as a source of revenue (restricted solely to interest earnings of the applicable State loan fund) or security for payment of the principal and interest on revenue or general obligation bonds issued by the State to provide matching funds under subsection (e), if the proceeds of the sale of the bonds will be deposited in the State loan fund.”.

### SEC. 2103. ADMINISTRATION OF STATE LOAN FUNDS.

Section 1452(g)(2) of the Safe Drinking Water Act (42 U.S.C. 300j–12(g)(2)) is amended—

(1) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and indenting the clauses appropriately;

(2) by striking the fifth sentence and inserting the following:

“(D) ENFORCEMENT ACTIONS.—Funds used under subparagraph (B)(ii) shall not be used for enforcement actions.”;

(3) in the fourth sentence, by striking “An additional” and inserting the following:

“(C) TECHNICAL ASSISTANCE.—An additional”;

(4) by striking the third sentence;

(5) in the second sentence, by striking “For fiscal year” and inserting the following:

“(B) ADDITIONAL USE OF FUNDS.—For fiscal year”;

(6) by striking the first sentence and inserting the following:

“(A) AUTHORIZATION.—

“(i) IN GENERAL.—For each fiscal year, a State may use the amount described in clause (ii)—

“(I) to cover the reasonable costs of administration of the programs under this section, including the recovery of reasonable costs expended to establish a State loan fund that are incurred after the date of enactment of this section; and

“(II) to provide technical assistance to public water systems within the State.

“(ii) DESCRIPTION OF AMOUNT.—The amount referred to in clause (i) is an amount equal to the sum of—

“(I) the amount of any fees collected by the State for use in accordance with clause (i)(I), regardless of the source; and

“(II) the greatest of—

“(aa) \$400,000;

“(bb)  $\frac{1}{5}$  percent of the current valuation of the fund; and

“(cc) an amount equal to 4 percent of all grant awards to the fund under this section for the fiscal year.”; and

(7) in subparagraph (B) (as redesignated by paragraph (5))—

(A) in clause (iv) (as redesignated by paragraph (1)), by striking “1419,” and inserting “1419.”; and

(B) in the undesignated matter following clause (iv) (as redesignated by paragraph (1)), by striking “if the State” and all that follows through “State funds.”.

#### **SEC. 2104. ASSISTANCE FOR SMALL AND DISADVANTAGED COMMUNITIES.**

Part E of the Safe Drinking Water Act (42 U.S.C. 300j et seq.) is amended by adding at the end the following:

#### **“SEC. 1459A. ASSISTANCE FOR SMALL AND DISADVANTAGED COMMUNITIES.**

“(a) DEFINITION OF UNDERSERVED COMMUNITY.—In this section:

“(1) IN GENERAL.—The term ‘underserved community’ means a political subdivision of a State that, as determined by the Administrator, has an inadequate system for obtaining drinking water.

“(2) INCLUSIONS.—The term ‘underserved community’ includes a political subdivision of a State that either, as determined by the Administrator—

“(A) does not have household drinking water or wastewater services; or

“(B) is served by a public water system that violates, or exceeds, as applicable, a requirement of a national primary drinking water regulation issued under section 1412, including—

“(i) a maximum contaminant level;

“(ii) a treatment technique; and

“(iii) an action level.

“(b) ESTABLISHMENT.—

“(1) IN GENERAL.—The Administrator shall establish a program under which grants are provided to eligible entities for use in carrying out projects and activities the primary purposes of which are to assist public water systems in meeting the requirements of this title.

“(2) INCLUSIONS.—Projects and activities under paragraph (1) include—

“(A) investments necessary for the public water system to comply with the requirements of this title;

“(B) assistance that directly and primarily benefits the disadvantaged community on a per-household basis; and

“(C) programs to provide household water quality testing, including testing for unregulated contaminants.

“(c) ELIGIBLE ENTITIES.—An eligible entity under this section—

“(1) is—

“(A) a public water system;

“(B) a water system that is located in an area governed by an Indian Tribe; or

“(C) a State, on behalf of an underserved community; and

“(2) serves a community—

“(A) that, under affordability criteria established by the State under section 1452(d)(3), is determined by the State—

“(i) to be a disadvantaged community; or

“(ii) to be a community that may become a disadvantaged community as a result of carrying out a project or activity under subsection (b); or

“(B) with a population of less than 10,000 individuals that the Administrator determines does not have the capacity to incur debt sufficient to finance a project or activity under subsection (b).

“(d) PRIORITY.—In prioritizing projects and activities for implementation under this section, the Administrator shall give priority to projects and activities that benefit underserved communities.

“(e) LOCAL PARTICIPATION.—In prioritizing projects and activities for implementation under this section, the Administrator shall consult with and consider the priorities of States, Indian Tribes, and local governments in which communities described in subsection (c)(2) are located.

“(f) TECHNICAL, MANAGERIAL, AND FINANCIAL CAPABILITY.—The Administrator may provide assistance to increase the technical, managerial, and financial capability of an eligible entity receiving a grant under this section if the Administrator determines that

the eligible entity lacks appropriate technical, managerial, or financial capability and is not receiving such assistance under another Federal program.

“(g) **COST SHARING.**—Before providing a grant to an eligible entity under this section, the Administrator shall enter into a binding agreement with the eligible entity to require the eligible entity—

“(1) to pay not less than 45 percent of the total costs of the project or activity, which may include services, materials, supplies, or other in-kind contributions;

“(2) to provide any land, easements, rights-of-way, and relocations necessary to carry out the project or activity; and

“(3) to pay 100 percent of any operation and maintenance costs associated with the project or activity.

“(h) **WAIVER.**—The Administrator may waive, in whole or in part, the requirement under subsection (g)(1) if the Administrator determines that an eligible entity is unable to pay, or would experience significant financial hardship if required to pay, the non-Federal share.

“(i) **LIMITATION ON USE OF FUNDS.**—Not more than 4 percent of funds made available for grants under this section may be used to pay the administrative costs of the Administrator.

“(j) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section, \$60,000,000 for each of fiscal years 2017 through 2021.”.

#### **SEC. 2105. REDUCING LEAD IN DRINKING WATER.**

Part E of the Safe Drinking Water Act (42 U.S.C. 300j et seq.) is further amended by adding at the end the following:

#### **“SEC. 1459B. REDUCING LEAD IN DRINKING WATER.**

“(a) **DEFINITIONS.**—In this section:

“(1) **ELIGIBLE ENTITY.**—The term ‘eligible entity’ means—

“(A) a community water system;

“(B) a water system located in an area governed by an Indian Tribe;

“(C) a nontransient noncommunity water system;

“(D) a qualified nonprofit organization, as determined by the Administrator, servicing a public water system; and

“(E) a municipality or State, interstate, or intermunicipal agency.

“(2) **LEAD REDUCTION PROJECT.**—

“(A) **IN GENERAL.**—The term ‘lead reduction project’ means a project or activity the primary purpose of which is to reduce the concentration of lead in water for human consumption by—

“(i) replacement of publicly owned lead service lines;

“(ii) testing, planning, or other relevant activities, as determined by the Administrator, to identify and address conditions (including corrosion control) that contribute to increased concentration of lead in water for human consumption; and

“(iii) providing assistance to low-income homeowners to replace lead service lines.

“(B) **LIMITATION.**—The term ‘lead reduction project’ does not include a partial lead service line replacement

if, at the conclusion of the service line replacement, drinking water is delivered to a household through a publicly or privately owned portion of a lead service line.

“(3) LOW-INCOME.—The term ‘low-income’, with respect to an individual provided assistance under this section, has such meaning as may be given the term by the Governor of the State in which the eligible entity is located, based upon the affordability criteria established by the State under section 1452(d)(3).

“(4) LEAD SERVICE LINE.—The term ‘lead service line’ means a pipe and its fittings, which are not lead free (as defined in section 1417(d)), that connect the drinking water main to the building inlet.

“(5) NONTRANSIENT NONCOMMUNITY WATER SYSTEM.—The term ‘nontransient noncommunity water system’ means a public water system that is not a community water system and that regularly serves at least 25 of the same persons over 6 months per year.

“(b) GRANT PROGRAM.—

“(1) ESTABLISHMENT.—The Administrator shall establish a grant program to provide assistance to eligible entities for lead reduction projects in the United States.

“(2) PRECONDITION.—As a condition of receipt of assistance under this section, an eligible entity shall take steps to identify—

“(A) the source of lead in the public water system that is subject to human consumption; and

“(B) the means by which the proposed lead reduction project would meaningfully reduce the concentration of lead in water provided for human consumption by the applicable public water system.

“(3) PRIORITY APPLICATION.—In providing grants under this subsection, the Administrator shall give priority to an eligible entity that—

“(A) the Administrator determines, based on affordability criteria established by the State under section 1452(d)(3), to be a disadvantaged community; and

“(B) proposes to—

“(i) carry out a lead reduction project at a public water system or nontransient noncommunity water system that has exceeded the lead action level established by the Administrator under section 1412 at any time during the 3-year period preceding the date of submission of the application of the eligible entity; or

“(ii) address lead levels in water for human consumption at a school, daycare, or other facility that primarily serves children or other vulnerable human subpopulation described in section 1458(a)(1).

“(4) COST SHARING.—

“(A) IN GENERAL.—Subject to subparagraph (B), the non-Federal share of the total cost of a project funded by a grant under this subsection shall be not less than 20 percent.

“(B) WAIVER.—The Administrator may reduce or eliminate the non-Federal share under subparagraph (A) for

reasons of affordability, as the Administrator determines to be appropriate.

“(5) LOW-INCOME ASSISTANCE.—

“(A) IN GENERAL.—Subject to subparagraph (B), an eligible entity may use a grant provided under this subsection to provide assistance to low-income homeowners to replace the lead service lines of such homeowners.

“(B) LIMITATION.—The amount of a grant provided to a low-income homeowner under this paragraph shall not exceed the standard cost of replacement of the privately owned portion of the lead service line.

“(6) SPECIAL CONSIDERATION FOR LEAD SERVICE LINE REPLACEMENT.—In carrying out lead service line replacement using a grant under this subsection, an eligible entity—

“(A) shall notify customers of the replacement of any publicly owned portion of the lead service line;

“(B) may, in the case of a homeowner who is not low-income, offer to replace the privately owned portion of the lead service line at the cost of replacement for that homeowner’s property;

“(C) may, in the case of a low-income homeowner, offer to replace the privately owned portion of the lead service line at a cost that is equal to the difference between—

“(i) the cost of replacement; and

“(ii) the amount of assistance available to the low-income homeowner under paragraph (5);

“(D) shall notify each customer that a planned replacement of any publicly owned portion of a lead service line that is funded by a grant made under this subsection will not be carried out unless the customer agrees to the simultaneous replacement of the privately owned portion of the lead service line; and

“(E) shall demonstrate that the eligible entity has considered other options for reducing the concentration of lead in its drinking water, including an evaluation of options for corrosion control.

“(c) LIMITATION ON USE OF FUNDS.—Not more than 4 percent of funds made available for grants under this section may be used to pay the administrative costs of the Administrator.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$60,000,000 for each of fiscal years 2017 through 2021.

“(e) SAVINGS CLAUSE.—Nothing in this section affects whether a public water system is responsible for the replacement of a lead service line that is—

“(1) subject to the control of the public water system; and

“(2) located on private property.”.

#### **SEC. 2106. NOTICE TO PERSONS SERVED.**

(a) ENFORCEMENT OF DRINKING WATER REGULATIONS.—Section 1414(c) of the Safe Drinking Water Act (42 U.S.C. 300g–3(c)) is amended—

(1) in the subsection heading, by striking “NOTICE TO” and inserting “NOTICE TO STATES, THE ADMINISTRATOR, AND”;

(2) in paragraph (1)—



(A) in subparagraph (C), by striking “paragraph (2)(E)” and inserting “paragraph (2)(F)”; and

(B) by adding at the end the following:

“(D) Notice that the public water system exceeded the lead action level under section 141.80(c) of title 40, Code of Federal Regulations (or a prescribed level of lead that the Administrator establishes for public education or notification in a successor regulation promulgated pursuant to section 1412).”;

(3) in paragraph (2)—

(A) in subparagraph (B)(i)(II), by striking “subparagraph (D)” and inserting “subparagraph (E)”; and

(B) in subparagraph (C)—

(i) in the subparagraph heading, by striking “VIOLATIONS” and inserting “NOTICE OF VIOLATIONS OR EXCEEDANCES”;

(ii) in the matter preceding clause (i)—

(I) in the first sentence, by striking “violation” and inserting “violation, and each exceedance described in paragraph (1)(D).”; and

(II) in the second sentence, by striking “violation” and inserting “violation or exceedance”;

(iii) by striking clause (i) and inserting the following:

“(i) be distributed as soon as practicable, but not later than 24 hours, after the public water system learns of the violation or exceedance.”;

(iv) in clause (ii), by inserting “or exceedance” after “violation” each place it appears;

(v) by striking clause (iii) and inserting the following:

“(iii) be provided to the Administrator and the head of the State agency that has primary enforcement responsibility under section 1413, as applicable, as soon as practicable, but not later than 24 hours after the public water system learns of the violation or exceedance; and”;

(vi) in clause (iv)—

(I) in subclause (I), by striking “broadcast media” and inserting “media, including broadcast media”; and

(II) in subclause (III), by striking “in lieu of notification by means of broadcast media or newspaper”;

(C) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(D) by inserting after subparagraph (C) the following:

“(D) NOTICE BY THE ADMINISTRATOR.—If the State with primary enforcement responsibility or the owner or operator of a public water system has not issued a notice under subparagraph (C) for an exceedance of the lead action level under section 141.80(c) of title 40, Code of Federal Regulations (or a prescribed level of lead that the Administrator establishes for public education or notification in a successor regulation promulgated pursuant to section 1412) that has the potential to have serious adverse effects on human health as a result of short-term exposure, not

later than 24 hours after the Administrator is notified of the exceedance, the Administrator shall issue the required notice under that subparagraph.”;

(4) in paragraph (3)(B), in the first sentence—

(A) by striking “subparagraph (A) and” and inserting “subparagraph (A),”; and

(B) by striking “subparagraph (C) or (D) of paragraph (2)” and inserting “subparagraph (C) or (E) of paragraph (2), and notices issued by the Administrator with respect to public water systems serving Indian Tribes under subparagraph (D) of that paragraph”;

(5) in paragraph (4)(B)—

(A) in clause (ii), by striking “the terms” and inserting “the terms ‘action level’”;;

(B) by striking clause (iii) and inserting the following:

“(iii) If any regulated contaminant is detected in the water purveyed by the public water system, a statement describing, as applicable—

“(I) the maximum contaminant level goal;

“(II) the maximum contaminant level;

“(III) the level of the contaminant in the water system;

“(IV) the action level for the contaminant; and

“(V) for any contaminant for which there has been a violation of the maximum contaminant level during the year concerned, a brief statement in plain language regarding the health concerns that resulted in regulation of the contaminant, as provided by the Administrator in regulations under subparagraph (A).”; and

(C) in the undesignated matter following clause (vi), in the second sentence, by striking “subclause (IV) of clause (iii)” and inserting “clause (iii)(V)”; and

(6) by adding at the end the following:

“(5) EXCEEDANCE OF LEAD LEVEL AT HOUSEHOLDS.—

“(A) STRATEGIC PLAN.—Not later than 180 days after the date of enactment of this paragraph, the Administrator shall, in collaboration with owners and operators of public water systems and States, establish a strategic plan for how the Administrator, a State with primary enforcement responsibility, and owners and operators of public water systems shall provide targeted outreach, education, technical assistance, and risk communication to populations affected by the concentration of lead in a public water system, including dissemination of information described in subparagraph (C).

“(B) EPA INITIATION OF NOTICE.—

“(i) FORWARDING OF DATA BY EMPLOYEE OF THE AGENCY.—If the Agency develops, or receives from a source other than a State or a public water system, data that meets the requirements of section 1412(b)(3)(A)(ii) that indicates that the drinking water of a household served by a public water system contains a level of lead that exceeds the lead action level under section 141.80(c) of title 40, Code of Federal Regulations (or a prescribed level of lead that the Administrator establishes for public education or

notification in a successor regulation promulgated pursuant to section 1412) (referred to in this paragraph as an ‘affected household’), the Administrator shall require an appropriate employee of the Agency to forward the data, and information on the sampling techniques used to obtain the data, to the owner or operator of the public water system and the State in which the affected household is located within a time period determined by the Administrator.

“(ii) DISSEMINATION OF INFORMATION BY OWNER OR OPERATOR.—The owner or operator of a public water system shall disseminate to affected households the information described in subparagraph (C) within a time period established by the Administrator, if the owner or operator—

“(I) receives data and information under clause (i); and

“(II) has not, since the date of the test that developed the data, notified the affected households—

“(aa) with respect to the concentration of lead in the drinking water of the affected households; and

“(bb) that the concentration of lead in the drinking water of the affected households exceeds the lead action level under section 141.80(c) of title 40, Code of Federal Regulations (or a prescribed level of lead that the Administrator establishes for public education or notification in a successor regulation promulgated pursuant to section 1412).

“(iii) CONSULTATION.—

“(I) DEADLINE.—If the owner or operator of the public water system does not disseminate to the affected households the information described in subparagraph (C) as required under clause (ii) within the time period established by the Administrator, not later than 24 hours after the Administrator becomes aware of the failure by the owner or operator of the public water system to disseminate the information, the Administrator shall consult, within a period not to exceed 24 hours, with the applicable Governor to develop a plan, in accordance with the strategic plan, to disseminate the information to the affected households not later than 24 hours after the end of the consultation period.

“(II) DELEGATION.—The Administrator may only delegate the duty to consult under subclause (I) to an employee of the Agency who, as of the date of the delegation, works in the Office of Water at the headquarters of the Agency.

“(iv) DISSEMINATION BY ADMINISTRATOR.—The Administrator shall, as soon as practicable, disseminate to affected households the information described in subparagraph (C) if—

“(I) the owner or operator of the public water system does not disseminate the information to the affected households within the time period determined by the Administrator, as required by clause (ii); and

“(II)(aa) the Administrator and the applicable Governor do not agree on a plan described in clause (iii)(I) during the consultation period under that clause; or

“(bb) the applicable Governor does not disseminate the information within 24 hours after the end of the consultation period.

“(C) INFORMATION REQUIRED.—The information described in this subparagraph includes—

“(i) a clear explanation of the potential adverse effects on human health of drinking water that contains a concentration of lead that exceeds the lead action level under section 141.80(c) of title 40, Code of Federal Regulations (or a prescribed level of lead that the Administrator establishes for public education or notification in a successor regulation promulgated pursuant to section 1412);

“(ii) the steps that the owner or operator of the public water system is taking to mitigate the concentration of lead; and

“(iii) the necessity of seeking alternative water supplies until the date on which the concentration of lead is mitigated.

“(6) PRIVACY.—Any notice to the public or an affected household under this subsection shall protect the privacy of individual customer information.”.

(b) PROHIBITION ON USE OF LEAD PIPES, SOLDER, AND FLUX.—Section 1417 of the Safe Drinking Water Act (42 U.S.C. 300g-6) is amended by adding at the end the following:

“(f) PUBLIC EDUCATION.—

“(1) IN GENERAL.—The Administrator shall make information available to the public regarding lead in drinking water, including information regarding—

“(A) risks associated with lead in drinking water;

“(B) the conditions that contribute to drinking water containing lead in a residence;

“(C) steps that States, public water systems, and consumers can take to reduce the risks of lead in drinking water; and

“(D) the availability of additional resources that consumers can use to minimize lead exposure, including information on sampling for lead in drinking water.

“(2) VULNERABLE POPULATIONS.—In making information available to the public under this subsection, the Administrator shall, subject to the availability of appropriations, carry out targeted outreach strategies that focus on educating groups within the general population that may be at greater risk than the general population of adverse health effects from exposure to lead in drinking water.”.

**SEC. 2107. LEAD TESTING IN SCHOOL AND CHILD CARE PROGRAM DRINKING WATER.**

(a) IN GENERAL.—Section 1464 of the Safe Drinking Water Act (42 U.S.C. 300j–24) is amended by striking subsection (d) and inserting the following:

“(d) VOLUNTARY SCHOOL AND CHILD CARE PROGRAM LEAD TESTING GRANT PROGRAM.—

“(1) DEFINITIONS.—In this subsection:

“(A) CHILD CARE PROGRAM.—The term ‘child care program’ has the meaning given the term ‘early childhood education program’ in section 103(8) of the Higher Education Act of 1965 (20 U.S.C. 1003(8)).

“(B) LOCAL EDUCATIONAL AGENCY.—The term ‘local educational agency’ means—

“(i) a local educational agency (as defined in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801));

“(ii) a tribal education agency (as defined in section 3 of the National Environmental Education Act (20 U.S.C. 5502)); and

“(iii) a person that owns or operates a child care program facility.

“(2) ESTABLISHMENT.—

“(A) IN GENERAL.—Not later than 180 days after the date of enactment of the Water and Waste Act of 2016, the Administrator shall establish a voluntary school and child care program lead testing grant program to make grants available to States to assist local educational agencies in voluntary testing for lead contamination in drinking water at schools and child care programs under the jurisdiction of the local educational agencies.

“(B) DIRECT GRANTS TO LOCAL EDUCATIONAL AGENCIES.—The Administrator may make a grant for the voluntary testing described in subparagraph (A) directly available to—

“(i) any local educational agency described in clause (i) or (iii) of paragraph (1)(B) located in a State that does not participate in the voluntary grant program established under subparagraph (A); or

“(ii) any local educational agency described in clause (ii) of paragraph (1)(B).

“(3) APPLICATION.—To be eligible to receive a grant under this subsection, a State or local educational agency shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require.

“(4) LIMITATION ON USE OF FUNDS.—Not more than 4 percent of grant funds accepted by a State or local educational agency for a fiscal year under this subsection shall be used to pay the administrative costs of carrying out this subsection.

“(5) GUIDANCE; PUBLIC AVAILABILITY.—As a condition of receiving a grant under this subsection, the recipient State or local educational agency shall ensure that each local educational agency to which grant funds are distributed shall—

“(A) expend grant funds in accordance with—

“(i) the guidance of the Environmental Protection Agency entitled ‘3Ts for Reducing Lead in Drinking

Water in Schools: Revised Technical Guidance’ and dated October 2006 (or any successor guidance); or

“(ii) applicable State regulations or guidance regarding reducing lead in drinking water in schools and child care programs that are not less stringent than the guidance referred to in clause (i); and

“(B)(i) make available, if applicable, in the administrative offices and, to the extent practicable, on the Internet website of the local educational agency for inspection by the public (including teachers, other school personnel, and parents) a copy of the results of any voluntary testing for lead contamination in school and child care program drinking water carried out using grant funds under this subsection; and

“(ii) notify parent, teacher, and employee organizations of the availability of the results described in clause (i).

“(6) MAINTENANCE OF EFFORT.—If resources are available to a State or local educational agency from any other Federal agency, a State, or a private foundation for testing for lead contamination in drinking water, the State or local educational agency shall demonstrate that the funds provided under this subsection will not displace those resources.

“(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$20,000,000 for each of fiscal years 2017 through 2021.”.

(b) REPEAL.—Section 1465 of the Safe Drinking Water Act (42 U.S.C. 300j–25) is repealed.

42 USC 300j–3d.

**SEC. 2108. WATER SUPPLY COST SAVINGS.**

(a) DRINKING WATER TECHNOLOGY CLEARINGHOUSE.—The Administrator, in consultation with the Secretary of Agriculture, shall—

(1) develop a technology clearinghouse for information on the cost-effectiveness of innovative and alternative drinking water delivery systems, including wells and well systems; and

(2) disseminate such information to the public and to communities and not-for-profit organizations seeking Federal funding for drinking water delivery systems serving 500 or fewer persons.

(b) WATER SYSTEM ASSESSMENT.—In any application for a grant or loan for the purpose of construction, replacement, or rehabilitation of a drinking water delivery system serving 500 or fewer persons, the funding for which would come from the Federal Government (either directly or through a State), a unit of local government or not-for-profit organization shall self-certify that the unit of local government or organization has considered, as an alternative drinking water supply, drinking water delivery systems sourced by publicly owned—

(1) individual wells;

(2) shared wells; and

(3) community wells.

(c) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report that describes—

(1) the use of innovative and alternative drinking water delivery systems described in this section;

(2) the range of cost savings for communities using innovative and alternative drinking water delivery systems described in this section; and

(3) the use of drinking water technical assistance programs operated by the Administrator and the Secretary of Agriculture.

**SEC. 2109. INNOVATION IN THE PROVISION OF SAFE DRINKING WATER.**

(a) INNOVATIVE WATER TECHNOLOGIES.—Section 1442(a)(1) of the Safe Drinking Water Act (42 U.S.C. 300j–1(a)(1)) is amended—

(1) in subparagraph (D), by striking “; and” and inserting a semicolon;

(2) by striking the period at the end of subparagraph (E) and inserting “; and”; and

(3) by adding at the end the following new subparagraph:

“(F) innovative water technologies (including technologies to improve water treatment to ensure compliance with this title and technologies to identify and mitigate sources of drinking water contamination, including lead contamination).”.

(b) TECHNICAL ASSISTANCE.—Section 1442 of the Safe Drinking Water Act (42 U.S.C. 300j–1) is amended—

(1) in the heading for subsection (e), by inserting “TO SMALL PUBLIC WATER SYSTEMS” after “ASSISTANCE”; and

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

“(f) TECHNICAL ASSISTANCE FOR INNOVATIVE WATER TECHNOLOGIES.—

“(1) The Administrator may provide technical assistance to public water systems to facilitate use of innovative water technologies.

“(2) There are authorized to be appropriated to the Administrator for use in providing technical assistance under paragraph (1) \$10,000,000 for each of fiscal years 2017 through 2021.”.

(c) REPORT.—Not later than 1 year after the date of enactment of the Water and Waste Act of 2016, and not less frequently than every 5 years thereafter, the Administrator shall report to Congress on—

42 USC 300j–1  
note.

(1) the amount of funding used to provide technical assistance under section 1442(f) of the Safe Drinking Water Act to deploy innovative water technologies;

(2) the barriers impacting greater use of innovative water technologies; and

(3) the cost-saving potential to cities and future infrastructure investments from innovative water technologies.

**SEC. 2110. SMALL SYSTEM TECHNICAL ASSISTANCE.**

Section 1452(q) of the Safe Drinking Water Act (42 U.S.C. 300j–12(q)) is amended by striking “appropriated” and all that follows through “2003” and inserting “made available to carry out this section for each of fiscal years 2016 through 2021”.

**SEC. 2111. DEFINITION OF INDIAN TRIBE.**

Section 1401(14) of the Safe Drinking Water Act (42 U.S.C. 300(f)(14)) is amended by striking “section 1452” and inserting “sections 1452, 1459A, and 1459B”.

**SEC. 2112. TECHNICAL ASSISTANCE FOR TRIBAL WATER SYSTEMS.**

(a) TECHNICAL ASSISTANCE.—Section 1442(e)(7) of the Safe Drinking Water Act (42 U.S.C. 300j–1(e)(7)) is amended by striking

“Tribes” and inserting “Tribes, including grants to provide training and operator certification services under section 1452(i)(5)”.

(b) INDIAN TRIBES.—Section 1452(i) of the Safe Drinking Water Act (42 U.S.C. 300j–12(i)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking “Tribes and Alaska Native villages” and inserting “Tribes, Alaska Native villages, and, for the purpose of carrying out paragraph (5), intertribal consortia or tribal organizations,”; and

(B) in the second sentence, by striking “The grants” and inserting “Except as otherwise provided, the grants”; and

(2) by adding at the end the following:

“(5) TRAINING AND OPERATOR CERTIFICATION.—

“(A) IN GENERAL.—The Administrator may use funds made available under this subsection and section 1442(e)(7) to make grants to intertribal consortia or tribal organizations for the purpose of providing operations and maintenance training and operator certification services to Indian Tribes to enable public water systems that serve Indian Tribes to achieve and maintain compliance with applicable national primary drinking water regulations.

“(B) ELIGIBLE TRIBAL ORGANIZATIONS.—Intertribal consortia or tribal organizations eligible for a grant under subparagraph (A) are intertribal consortia or tribal organizations that—

“(i) as determined by the Administrator, are the most qualified and experienced to provide training and technical assistance to Indian Tribes; and

“(ii) the Indian Tribes find to be the most beneficial and effective.”.

**SEC. 2113. MATERIALS REQUIREMENT FOR CERTAIN FEDERALLY FUNDED PROJECTS.**

Section 1452(a) of the Safe Drinking Water Act (42 U.S.C. 300j–12(a)) is amended by adding at the end the following:

“(4) AMERICAN IRON AND STEEL PRODUCTS.—

“(A) IN GENERAL.—During fiscal year 2017, funds made available from a State loan fund established pursuant to this section may not be used for a project for the construction, alteration, or repair of a public water system unless all of the iron and steel products used in the project are produced in the United States.

“(B) DEFINITION OF IRON AND STEEL PRODUCTS.—In this paragraph, the term ‘iron and steel products’ means the following products made primarily of iron or steel:

“(i) Lined or unlined pipes and fittings.

“(ii) Manhole covers and other municipal castings.

“(iii) Hydrants.

“(iv) Tanks.

“(v) Flanges.

“(vi) Pipe clamps and restraints.

“(vii) Valves.

“(viii) Structural steel.

“(ix) Reinforced precast concrete.

“(x) Construction materials.



“(C) APPLICATION.—Subparagraph (A) shall be waived in any case or category of cases in which the Administrator finds that—

“(i) applying subparagraph (A) would be inconsistent with the public interest;

“(ii) iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

“(iii) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

“(D) WAIVER.—If the Administrator receives a request for a waiver under this paragraph, the Administrator shall make available to the public, on an informal basis, a copy of the request and information available to the Administrator concerning the request, and shall allow for informal public input on the request for at least 15 days prior to making a finding based on the request. The Administrator shall make the request and accompanying information available by electronic means, including on the official public Internet site of the Agency.

“(E) INTERNATIONAL AGREEMENTS.—This paragraph shall be applied in a manner consistent with United States obligations under international agreements.

“(F) MANAGEMENT AND OVERSIGHT.—The Administrator may retain up to 0.25 percent of the funds appropriated for this section for management and oversight of the requirements of this paragraph.

“(G) EFFECTIVE DATE.—This paragraph does not apply with respect to a project if a State agency approves the engineering plans and specifications for the project, in that agency’s capacity to approve such plans and specifications prior to a project requesting bids, prior to the date of enactment of this paragraph.”.

## **Subtitle B—Drinking Water Disaster Relief and Infrastructure Investments**

### **SEC. 2201. DRINKING WATER INFRASTRUCTURE.**

42 USC 300j–12  
note.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE STATE.—The term “eligible State” means a State for which the President has declared an emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) relating to the public health threats associated with the presence of lead or other contaminants in drinking water provided by a public water system.

(2) ELIGIBLE SYSTEM.—The term “eligible system” means a public water system that has been the subject of an emergency declaration referred to in paragraph (1).

(3) LEAD SERVICE LINE.—The term “lead service line” means a pipe and its fittings, which are not lead free (as defined under section 1417 of the Safe Drinking Water Act (42 U.S.C. 300g–6)), that connect the drinking water main to the building inlet.

(4) **PUBLIC WATER SYSTEM.**—The term “public water system” has the meaning given such term in section 1401(4) of the Safe Drinking Water Act (42 U.S.C. 300f(4)).

(b) **STATE REVOLVING LOAN FUND ASSISTANCE.**—

(1) **IN GENERAL.**—An eligible system shall be—

(A) considered to be a disadvantaged community under section 1452(d) of the Safe Drinking Water Act (42 U.S.C. 300j–12(d)); and

(B) eligible to receive loans with additional subsidization under section 1452(d)(1) of that Act (42 U.S.C. 300j–12(d)(1)), including forgiveness of principal under that section.

(2) **AUTHORIZATION.**—

(A) **IN GENERAL.**—Using funds provided pursuant to subsection (d), an eligible State may provide assistance to an eligible system within the eligible State for the purpose of addressing lead or other contaminants in drinking water, including repair and replacement of lead service lines and public water system infrastructure.

(B) **INCLUSION.**—Assistance provided under subparagraph (A) may include additional subsidization under section 1452(d)(1) of the Safe Drinking Water Act (42 U.S.C. 300j–12(d)(1)), as described in paragraph (1)(B).

(C) **EXCLUSION.**—Assistance provided under subparagraph (A) shall not include assistance for a project that is financed (directly or indirectly), in whole or in part, with proceeds of any obligation issued after the date of enactment of this Act—

(i) the interest of which is exempt from the tax imposed under chapter 1 of the Internal Revenue Code of 1986; or

(ii) with respect to which credit is allowable under subpart I or J of part IV of subchapter A of chapter 1 of such Code.

(3) **INAPPLICABILITY OF LIMITATION.**—Section 1452(d)(2) of the Safe Drinking Water Act (42 U.S.C. 300j–12(d)(2)) shall not apply to—

(A) any funds provided pursuant to subsection (d) of this section;

(B) any other assistance provided to an eligible system; or

(C) any funds required to match the funds provided under subsection (d).

(c) **NONDUPLICATION OF WORK.**—An activity carried out pursuant to this section shall not duplicate the work or activity of any other Federal or State department or agency.

(d) **ADDITIONAL DRINKING WATER STATE REVOLVING FUND CAPITALIZATION GRANTS.**—

(1) **IN GENERAL.**—There is authorized to be appropriated to the Administrator a total of \$100,000,000 to provide additional capitalization grants to eligible States pursuant to section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12), to be available for a period of 18 months beginning on the date on which the funds are made available, for the purposes described in subsection (b)(2), and after the end of the 18-month period, until expended for the purposes described in paragraph (3).

(2) SUPPLEMENTED INTENDED USE PLANS.—From funds made available under paragraph (1), the Administrator shall obligate to an eligible State such amounts as are necessary to meet the needs identified in a supplemented intended use plan for the purposes described in subsection (b)(2) by not later than 30 days after the date on which the eligible State submits to the Administrator a supplemented intended use plan under section 1452(b) of the Safe Drinking Water Act (42 U.S.C. 300j–12(b)) that includes preapplication information regarding projects to be funded using the additional assistance, including, with respect to each such project—

(A) a description of the project;

(B) an explanation of the means by which the project will address a situation causing a declared emergency in the eligible State;

(C) the estimated cost of the project; and

(D) the projected start date for construction of the project.

(3) UNOBLIGATED AMOUNTS.—Any amounts made available to the Administrator under paragraph (1) that are unobligated on the date that is 18 months after the date on which the amounts are made available shall be available to provide additional grants to States to capitalize State loan funds as provided under section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12).

(4) APPLICABILITY.—

(A) Section 1452(b)(1) of the Safe Drinking Water Act (42 U.S.C. 300j–12(b)(1)) shall not apply to a supplement to an intended use plan under paragraph (2).

(B) Unless explicitly waived, all requirements under the Safe Drinking Water Act (42 U.S.C. 300f et seq.) shall apply to funding provided under this subsection.

(e) HEALTH EFFECTS EVALUATION.—

(1) IN GENERAL.—Pursuant to section 104(i)(1)(E) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(i)(1)(E)), and on receipt of a request of an appropriate State or local health official of an eligible State, the Director of the Agency for Toxic Substances and Disease Registry of the National Center for Environmental Health shall in coordination with other agencies, as appropriate, conduct voluntary surveillance activities to evaluate any adverse health effects on individuals exposed to lead from drinking water in the affected communities.

(2) CONSULTATIONS.—Pursuant to section 104(i)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(i)(4)), and on receipt of a request of an appropriate State or local health official of an eligible State, the Director of the Agency for Toxic Substances and Disease Registry of the National Center for Environmental Health shall provide consultations regarding health issues described in paragraph (1).

(f) NO EFFECT ON OTHER PROJECTS.—This section shall not affect the application of any provision of the Water Infrastructure Finance and Innovation Act of 2014 (33 U.S.C. 3901 et seq.) or the Safe Drinking Water Act (42 U.S.C. 300f et seq.) to any project that does not receive assistance pursuant to this subtitle.

**SEC. 2202. SENSE OF CONGRESS.**

It is the sense of Congress that secured loans under the Water Infrastructure Finance and Innovation Act of 2014 (33 U.S.C. 3901 et seq.) shall be—

- (1) initially appropriated at \$20,000,000; and
- (2) used for eligible projects, including those to address lead and other contaminants in drinking water systems.

42 USC 300j–21. **SEC. 2203. REGISTRY FOR LEAD EXPOSURE AND ADVISORY COMMITTEE.**

(a) **DEFINITIONS.**—In this section:

(1) **CITY.**—The term “City” means a city exposed to lead contamination in the local drinking water system.

(2) **COMMITTEE.**—The term “Committee” means the Advisory Committee established under subsection (c).

(3) **SECRETARY.**—The term “Secretary” means the Secretary of Health and Human Services.

(b) **LEAD EXPOSURE REGISTRY.**—The Secretary shall establish within the Agency for Toxic Substances and Disease Registry or the Centers for Disease Control and Prevention at the discretion of the Secretary, or establish through a grant award or contract, a lead exposure registry to collect data on the lead exposure of residents of a City on a voluntary basis.

(c) **ADVISORY COMMITTEE.**—

(1) **MEMBERSHIP.**—

(A) **IN GENERAL.**—The Secretary shall establish, within the Agency for Toxic Substances and Disease Registry an Advisory Committee in coordination with the Director of the Centers for Disease Control and Prevention and other relevant agencies as determined by the Secretary consisting of Federal members and non-Federal members, and which shall include—

- (i) an epidemiologist;
- (ii) a toxicologist;
- (iii) a mental health professional;
- (iv) a pediatrician;
- (v) an early childhood education expert;
- (vi) a special education expert;
- (vii) a dietitian; and
- (viii) an environmental health expert.

(B) **REQUIREMENTS.**—Membership in the Committee shall not exceed 15 members and not less than ½ of the members shall be Federal members.

(2) **CHAIR.**—The Secretary shall designate a chair from among the Federal members appointed to the Committee.

(3) **TERMS.**—Members of the Committee shall serve for a term of not more than 3 years and the Secretary may reappoint members for consecutive terms.

(4) **APPLICATION OF FAC.**—The Committee shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(5) **RESPONSIBILITIES.**—The Committee shall, at a minimum—

(A) review the Federal programs and services available to individuals and communities exposed to lead;

(B) review current research on lead poisoning to identify additional research needs;

(C) review and identify best practices, or the need for best practices, regarding lead screening and the prevention of lead poisoning;

(D) identify effective services, including services relating to healthcare, education, and nutrition for individuals and communities affected by lead exposure and lead poisoning, including in consultation with, as appropriate, the lead exposure registry as established in subsection (b); and

(E) undertake any other review or activities that the Secretary determines to be appropriate.

(6) REPORT.—Annually for 5 years and thereafter as determined necessary by the Secretary or as required by Congress, the Committee shall submit to the Secretary, the Committees on Finance, Health, Education, Labor, and Pensions, and Agriculture, Nutrition, and Forestry of the Senate and the Committees on Education and the Workforce, Energy and Commerce, and Agriculture of the House of Representatives a report that includes—

(A) an evaluation of the effectiveness of the Federal programs and services available to individuals and communities exposed to lead;

(B) an evaluation of additional lead poisoning research needs;

(C) an assessment of any effective screening methods or best practices used or developed to prevent or screen for lead poisoning;

(D) input and recommendations for improved access to effective services relating to health care, education, or nutrition for individuals and communities impacted by lead exposure; and

(E) any other recommendations for communities affected by lead exposure, as appropriate.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the period of fiscal years 2017 through 2021—

(1) \$17,500,000 to carry out subsection (b); and

(2) \$2,500,000 to carry out subsection (c).

#### **SEC. 2204. OTHER LEAD PROGRAMS.**

(a) CHILDHOOD LEAD POISONING PREVENTION PROGRAM.—In addition to amounts made available through the Prevention and Public Health Fund established under section 4002 of Public Law 111–148 (42 U.S.C. 300u-11) to carry out section 317A of the Public Health Service Act (42 U.S.C. 247b-1), there are authorized to be appropriated for the period of fiscal years 2017 and 2018, \$15,000,000 for carrying out such section 317A.

(b) HEALTHY START PROGRAM.—There are authorized to be appropriated for the period of fiscal years 2017 and 2018 \$15,000,000 to carry out the Healthy Start Initiative under section 330H of the Public Health Service Act (42 U.S.C. 254c-8).

## Subtitle C—Control of Coal Combustion Residuals

### SEC. 2301. APPROVAL OF STATE PROGRAMS FOR CONTROL OF COAL COMBUSTION RESIDUALS.

Section 4005 of the Solid Waste Disposal Act (42 U.S.C. 6945) is amended by adding at the end the following:

“(d) STATE PROGRAMS FOR CONTROL OF COAL COMBUSTION  
RESIDUALS.—

“(1) APPROVAL BY ADMINISTRATOR.—

“(A) IN GENERAL.—Each State may submit to the Administrator, in such form as the Administrator may establish, evidence of a permit program or other system of prior approval and conditions under State law for regulation by the State of coal combustion residuals units that are located in the State that, after approval by the Administrator, will operate in lieu of regulation of coal combustion residuals units in the State by—

“(i) application of part 257 of title 40, Code of Federal Regulations (or successor regulations promulgated pursuant to sections 1008(a)(3) and 4004(a)); or

“(ii) implementation by the Administrator of a permit program under paragraph (2)(B).

“(B) REQUIREMENT.—Not later than 180 days after the date on which a State submits the evidence described in subparagraph (A), the Administrator, after public notice and an opportunity for public comment, shall approve, in whole or in part, a permit program or other system of prior approval and conditions submitted under subparagraph (A) if the Administrator determines that the program or other system requires each coal combustion residuals unit located in the State to achieve compliance with—

“(i) the applicable criteria for coal combustion residuals units under part 257 of title 40, Code of Federal Regulations (or successor regulations promulgated pursuant to sections 1008(a)(3) and 4004(a)); or

“(ii) such other State criteria that the Administrator, after consultation with the State, determines to be at least as protective as the criteria described in clause (i).

“(C) PERMIT REQUIREMENTS.—The Administrator shall approve under subparagraph (B)(ii) a State permit program or other system of prior approval and conditions that allows a State to include technical standards for individual permits or conditions of approval that differ from the criteria under part 257 of title 40, Code of Federal Regulations (or successor regulations promulgated pursuant to sections 1008(a)(3) and 4004(a)) if, based on site-specific conditions, the Administrator determines that the technical standards established pursuant to a State permit program or other system are at least as protective as the criteria under that part.

“(D) PROGRAM REVIEW AND NOTIFICATION.—

“(i) PROGRAM REVIEW.—The Administrator shall review a State permit program or other system of prior approval and conditions that is approved under subparagraph (B)—

“(I) from time to time, as the Administrator determines necessary, but not less frequently than once every 12 years;

“(II) not later than 3 years after the date on which the Administrator revises the applicable criteria for coal combustion residuals units under part 257 of title 40, Code of Federal Regulations (or successor regulations promulgated pursuant to sections 1008(a)(3) and 4004(a));

“(III) not later than 1 year after the date of a significant release (as defined by the Administrator), that was not authorized at the time the release occurred, from a coal combustion residuals unit located in the State; and

“(IV) on request of any other State that asserts that the soil, groundwater, or surface water of the State is or is likely to be adversely affected by a release or potential release from a coal combustion residuals unit located in the State for which the program or other system was approved.

“(ii) NOTIFICATION AND OPPORTUNITY FOR A PUBLIC HEARING.—The Administrator shall provide to a State notice of deficiencies with respect to the permit program or other system of prior approval and conditions of the State that is approved under subparagraph (B), and an opportunity for a public hearing, if the Administrator determines that—

“(I) a revision or correction to the permit program or other system of prior approval and conditions of the State is necessary to ensure that the permit program or other system of prior approval and conditions continues to ensure that each coal combustion residuals unit located in the State achieves compliance with the criteria described in clauses (i) and (ii) of subparagraph (B);

“(II) the State has not implemented an adequate permit program or other system of prior approval and conditions that requires each coal combustion residuals unit located in the State to achieve compliance with the criteria described in subparagraph (B); or

“(III) the State has, at any time, approved or failed to revoke a permit for a coal combustion residuals unit, a release from which adversely affects or is likely to adversely affect the soil, groundwater, or surface water of another State.

“(E) WITHDRAWAL.—

“(i) IN GENERAL.—The Administrator shall withdraw approval of a State permit program or other system of prior approval and conditions if, after the Administrator provides notice and an opportunity for a public hearing to the relevant State under subparagraph (D)(ii), the Administrator determines that the

State has not corrected the deficiencies identified by the Administrator under subparagraph (D)(ii).

“(ii) REINSTATEMENT OF STATE APPROVAL.—Any withdrawal of approval under clause (i) shall cease to be effective on the date on which the Administrator makes a determination that the State has corrected the deficiencies identified by the Administrator under subparagraph (D)(ii).

“(2) NONPARTICIPATING STATES.—

“(A) DEFINITION OF NONPARTICIPATING STATE.—In this paragraph, the term ‘nonparticipating State’ means a State—

“(i) for which the Administrator has not approved a State permit program or other system of prior approval and conditions under paragraph (1)(B);

“(ii) the Governor of which has not submitted to the Administrator for approval evidence to operate a State permit program or other system of prior approval and conditions under paragraph (1)(A);

“(iii) the Governor of which provides notice to the Administrator that, not fewer than 90 days after the date on which the Governor provides the notice to the Administrator, the State will relinquish an approval under paragraph (1)(B) to operate a permit program or other system of prior approval and conditions; or

“(iv) for which the Administrator has withdrawn approval for a permit program or other system of prior approval and conditions under paragraph (1)(E).

“(B) IMPLEMENTATION OF PERMIT PROGRAM.—In the case of a nonparticipating State and subject to the availability of appropriations specifically provided in an appropriations Act to carry out a program in a nonparticipating State, the Administrator shall implement a permit program to require each coal combustion residuals unit located in the nonparticipating State to achieve compliance with applicable criteria established by the Administrator under part 257 of title 40, Code of Federal Regulations (or successor regulations promulgated pursuant to sections 1008(a)(3) and 4004(a)).

“(3) APPLICABILITY OF CRITERIA.—The applicable criteria for coal combustion residuals units under part 257 of title 40, Code of Federal Regulations (or successor regulations promulgated pursuant to sections 1008(a)(3) and 4004(a)), shall apply to each coal combustion residuals unit in a State unless—

“(A) a permit under a State permit program or other system of prior approval and conditions approved by the Administrator under paragraph (1)(B) is in effect for the coal combustion residuals unit; or

“(B) a permit issued by the Administrator in a State in which the Administrator is implementing a permit program under paragraph (2)(B) is in effect for the coal combustion residuals unit.

“(4) PROHIBITION ON OPEN DUMPING.—

“(A) IN GENERAL.—The Administrator may use the authority provided by sections 3007 and 3008 to enforce



the prohibition on open dumping under subsection (a) with respect to a coal combustion residuals unit—

“(i) in a nonparticipating State (as defined in paragraph (2)); and

“(ii) located in a State that is approved to operate a permit program or other system of prior approval and conditions under paragraph (1)(B), in accordance with subparagraph (B) of this paragraph.

“(B) FEDERAL ENFORCEMENT IN AN APPROVED STATE.—

“(i) IN GENERAL.—In the case of a coal combustion residuals unit located in a State that is approved to operate a permit program or other system of prior approval and conditions under paragraph (1)(B), the Administrator may commence an administrative or judicial enforcement action under section 3008 if—

“(I) the State requests that the Administrator provide assistance in the performance of an enforcement action; or

“(II) after consideration of any other administrative or judicial enforcement action involving the coal combustion residuals unit, the Administrator determines that an enforcement action is likely to be necessary to ensure that the coal combustion residuals unit is operating in accordance with the criteria established under the permit program or other system of prior approval and conditions.

“(ii) NOTIFICATION.—In the case of an enforcement action by the Administrator under clause (i)(II), before issuing an order or commencing a civil action, the Administrator shall notify the State in which the coal combustion residuals unit is located.

“(iii) ANNUAL REPORT TO CONGRESS.—

“(I) IN GENERAL.—Subject to subclause (II), not later than December 31, 2017, and December 31 of each year thereafter, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that describes any enforcement action commenced under clause (i), including a description of the basis for the enforcement action.

“(II) APPLICABILITY.—Subclause (I) shall not apply for any calendar year during which the Administrator does not commence an enforcement action under clause (i).

“(5) INDIAN COUNTRY.—The Administrator shall establish and carry out a permit program, in accordance with this subsection, for coal combustion residuals units in Indian country (as defined in section 1151 of title 18, United States Code) to require each coal combustion residuals unit located in Indian country to achieve compliance with the applicable criteria established by the Administrator under part 257 of title 40, Code of Federal Regulations (or successor regulations promulgated pursuant to sections 1008(a)(3) and 4004(a)).

“(6) TREATMENT OF COAL COMBUSTION RESIDUALS UNITS.—A coal combustion residuals unit shall be considered to be

a sanitary landfill for purposes of this Act, including subsection (a), only if the coal combustion residuals unit is operating in accordance with—

“(A) the requirements of a permit issued by—

“(i) the State in accordance with a program or system approved under paragraph (1)(B); or

“(ii) the Administrator pursuant to paragraph (2)(B) or paragraph (5); or

“(B) the applicable criteria for coal combustion residuals units under part 257 of title 40, Code of Federal Regulations (or successor regulations promulgated pursuant to sections 1008(a)(3) and 4004(a)).

“(7) EFFECT OF SUBSECTION.—Nothing in this subsection affects any authority, regulatory determination, other law, or legal obligation in effect on the day before the date of enactment of the Water and Waste Act of 2016.”.

## TITLE III—NATURAL RESOURCES

### Subtitle A—Indian Dam Safety

25 USC 3805.

#### SEC. 3101. INDIAN DAM SAFETY.

(a) DEFINITIONS.—In this section:

(1) DAM.—

(A) IN GENERAL.—The term “dam” has the meaning given the term in section 2 of the National Dam Safety Program Act (33 U.S.C. 467).

(B) INCLUSIONS.—The term “dam” includes any structure, facility, equipment, or vehicle used in connection with the operation of a dam.

(2) FUND.—The term “Fund” means, as applicable—

(A) the High-Hazard Indian Dam Safety Deferred Maintenance Fund established by subsection (b)(1)(A); or

(B) the Low-Hazard Indian Dam Safety Deferred Maintenance Fund established by subsection (b)(2)(A).

(3) HIGH HAZARD POTENTIAL DAM.—The term “high hazard potential dam” means a dam assigned to the significant or high hazard potential classification under the guidelines published by the Federal Emergency Management Agency entitled “Federal Guidelines for Dam Safety: Hazard Potential Classification System for Dams” (FEMA Publication Number 333).

(4) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

(5) LOW HAZARD POTENTIAL DAM.—The term “low hazard potential dam” means a dam assigned to the low hazard potential classification under the guidelines published by the Federal Emergency Management Agency entitled “Federal Guidelines for Dam Safety: Hazard Potential Classification System for Dams” (FEMA Publication Number 333).

(6) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Assistant Secretary for Indian Affairs, in consultation with the Secretary of the Army.

(b) INDIAN DAM SAFETY DEFERRED MAINTENANCE FUNDS.—

(1) HIGH-HAZARD FUND.—

(A) ESTABLISHMENT.—There is established in the Treasury of the United States a fund, to be known as the “High-Hazard Indian Dam Safety Deferred Maintenance Fund”, consisting of—

(i) such amounts as are deposited in the Fund under subparagraph (B); and

(ii) any interest earned on investment of amounts in the Fund under subparagraph (D).

(B) DEPOSITS TO FUND.—

(i) IN GENERAL.—For each of fiscal years 2017 through 2023, the Secretary of the Treasury shall deposit in the Fund \$22,750,000 from the general fund of the Treasury.

(ii) AVAILABILITY OF AMOUNTS.—Amounts deposited in the Fund under clause (i) shall be used, subject to appropriation, to carry out this section.

(C) EXPENDITURES FROM FUND.—

(i) IN GENERAL.—Subject to clause (ii), for each of fiscal years 2017 through 2023, the Secretary may, to the extent provided in advance in appropriations Acts, expend from the Fund, in accordance with this section, not more than the sum of—

(I) \$22,750,000; and

(II) the amount of interest accrued in the Fund.

(ii) ADDITIONAL EXPENDITURES.—The Secretary may expend more than \$22,750,000 for any fiscal year referred to in clause (i) if the additional amounts are available in the Fund as a result of a failure of the Secretary to expend all of the amounts available under clause (i) in 1 or more prior fiscal years.

(D) INVESTMENTS OF AMOUNTS.—

(i) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary, required to meet current withdrawals.

(ii) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to, and form a part of, the Fund.

(E) TRANSFERS OF AMOUNTS.—

(i) IN GENERAL.—The amounts required to be transferred to the Fund under this paragraph shall be transferred at least monthly.

(ii) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates are in excess of or less than the amounts required to be transferred.

(F) TERMINATION.—On September 30, 2023—

(i) the Fund shall terminate; and

(ii) the unexpended and unobligated balance of the Fund shall be transferred to the general fund of the Treasury.

(2) LOW-HAZARD FUND.—

(A) ESTABLISHMENT.—There is established in the Treasury of the United States a fund, to be known as

the “Low-Hazard Indian Dam Safety Deferred Maintenance Fund”, consisting of—

(i) such amounts as are deposited in the Fund under subparagraph (B); and

(ii) any interest earned on investment of amounts in the Fund under subparagraph (D).

(B) DEPOSITS TO FUND.—

(i) IN GENERAL.—For each of fiscal years 2017 through 2023, the Secretary of the Treasury shall deposit in the Fund \$10,000,000 from the general fund of the Treasury.

(ii) AVAILABILITY OF AMOUNTS.—Amounts deposited in the Fund under clause (i) shall be used, subject to appropriation, to carry out this section.

(C) EXPENDITURES FROM FUND.—

(i) IN GENERAL.—Subject to clause (ii), for each of fiscal years 2017 through 2023, the Secretary may, to the extent provided in advance in appropriations Acts, expend from the Fund, in accordance with this section, not more than the sum of—

(I) \$10,000,000; and

(II) the amount of interest accrued in the Fund.

(ii) ADDITIONAL EXPENDITURES.—The Secretary may expend more than \$10,000,000 for any fiscal year referred to in clause (i) if the additional amounts are available in the Fund as a result of a failure of the Secretary to expend all of the amounts available under clause (i) in 1 or more prior fiscal years.

(D) INVESTMENTS OF AMOUNTS.—

(i) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary, required to meet current withdrawals.

(ii) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to, and form a part of, the Fund.

(E) TRANSFERS OF AMOUNTS.—

(i) IN GENERAL.—The amounts required to be transferred to the Fund under this paragraph shall be transferred at least monthly.

(ii) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates are in excess of or less than the amounts required to be transferred.

(F) TERMINATION.—On September 30, 2023—

(i) the Fund shall terminate; and

(ii) the unexpended and unobligated balance of the Fund shall be transferred to the general fund of the Treasury.

(c) REPAIR, REPLACEMENT, AND MAINTENANCE OF CERTAIN INDIAN DAMS.—

(1) PROGRAM ESTABLISHMENT.—

(A) IN GENERAL.—The Secretary shall establish a program to address the deferred maintenance needs of Indian dams that—

(i) create flood risks or other risks to public or employee safety or natural or cultural resources; and

(ii) unduly impede the management and efficiency of Indian dams.

(B) FUNDING.—

(i) HIGH-HAZARD FUND.—Consistent with subsection (b)(1)(B), the Secretary shall use or transfer to the Bureau of Indian Affairs not less than \$22,750,000 of amounts in the High-Hazard Indian Dam Safety Deferred Maintenance Fund, plus accrued interest, for each of fiscal years 2017 through 2023 to carry out maintenance, repair, and replacement activities for 1 or more of the Indian dams described in paragraph (2)(A).

(ii) LOW-HAZARD FUND.—Consistent with subsection (b)(2)(B), the Secretary shall use or transfer to the Bureau of Indian Affairs not less than \$10,000,000 of amounts in the Low-Hazard Indian Dam Safety Deferred Maintenance Fund, plus accrued interest, for each of fiscal years 2017 through 2023 to carry out maintenance, repair, and replacement activities for 1 or more of the Indian dams described in paragraph (2)(B).

(C) COMPLIANCE WITH DAM SAFETY POLICIES.—Maintenance, repair, and replacement activities for Indian dams under this section shall be carried out in accordance with the dam safety policies of the Director of the Bureau of Indian Affairs established to carry out the Indian Dams Safety Act of 1994 (25 U.S.C. 3801 et seq.).

(2) ELIGIBLE DAMS.—

(A) HIGH HAZARD POTENTIAL DAMS.—The dams eligible for funding under paragraph (1)(B)(i) are Indian high hazard potential dams in the United States that—

(i) are included in the safety of dams program established pursuant to the Indian Dams Safety Act of 1994 (25 U.S.C. 3801 et seq.); and

(iii)(I)(aa) are owned by the Federal Government, as listed in the Federal inventory required by Executive Order 13327 (40 U.S.C. 121 note; relating to Federal real property asset management); and

(bb) are managed by the Bureau of Indian Affairs (including dams managed under contracts or compacts pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.)); or

(II) have deferred maintenance documented by the Bureau of Indian Affairs.

(B) LOW HAZARD POTENTIAL DAMS.—The dams eligible for funding under paragraph (1)(B)(ii) are Indian low hazard potential dams in the United States that, on the date of enactment of this Act—

(i) are covered under the Indian Dams Safety Act of 1994 (25 U.S.C. 3801 et seq.); and

(ii)(I)(aa) are owned by the Federal Government, as listed in the Federal inventory required by Executive Order 13327 (40 U.S.C. 121 note; relating to Federal real property asset management); and

(bb) are managed by the Bureau of Indian Affairs (including dams managed under contracts or compacts pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.)); or

(II) have deferred maintenance documented by the Bureau of Indian Affairs.

(3) REQUIREMENTS AND CONDITIONS.—Not later than 120 days after the date of enactment of this Act and as a precondition to amounts being expended from the Fund to carry out this subsection, the Secretary, in consultation with representatives of affected Indian tribes, shall develop and submit to Congress—

(A) programmatic goals to carry out this subsection that—

(i) would enable the completion of repairing, replacing, improving, or performing maintenance on Indian dams as expeditiously as practicable, subject to the dam safety policies of the Director of the Bureau of Indian Affairs established to carry out the Indian Dams Safety Act of 1994 (25 U.S.C. 3801 et seq.);

(ii) facilitate or improve the ability of the Bureau of Indian Affairs to carry out the mission of the Bureau of Indian Affairs in operating an Indian dam; and

(iii) ensure that the results of government-to-government consultation required under paragraph (4) be addressed; and

(B) funding prioritization criteria to serve as a methodology for distributing funds under this subsection that take into account—

(i) the extent to which deferred maintenance of Indian dams poses a threat to—

(I) public or employee safety or health;

(II) natural or cultural resources; or

(III) the ability of the Bureau of Indian Affairs to carry out the mission of the Bureau of Indian Affairs in operating an Indian dam;

(ii) the extent to which repairing, replacing, improving, or performing maintenance on an Indian dam will—

(I) improve public or employee safety, health, or accessibility;

(II) assist in compliance with codes, standards, laws, or other requirements;

(III) address unmet needs; or

(IV) assist in protecting natural or cultural resources;

(iii) the methodology of the rehabilitation priority index of the Secretary, as in effect on the date of enactment of this Act;

(iv) the potential economic benefits of the expenditures on job creation and general economic development in the affected tribal communities;

(v) the ability of an Indian dam to address tribal, regional, and watershed level flood prevention needs;

(vi) the need to comply with the dam safety policies of the Director of the Bureau of Indian Affairs established to carry out the Indian Dams Safety Act of 1994 (25 U.S.C. 3801 et seq.);

(vii) the ability of the water storage capacity of an Indian dam to be increased to prevent flooding in downstream tribal and nontribal communities; and

(viii) such other factors as the Secretary determines to be appropriate to prioritize the use of available funds that are, to the fullest extent practicable, consistent with tribal and user recommendations received pursuant to the consultation and input process under paragraph (4).

(4) TRIBAL CONSULTATION AND USER INPUT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), before expending funds on an Indian dam pursuant to paragraph (1) and not later than 60 days after the date of enactment of this Act, the Secretary shall—

(i) consult with the Director of the Bureau of Indian Affairs on the expenditure of funds;

(ii) ensure that the Director of the Bureau of Indian Affairs advises the Indian tribe that has jurisdiction over the land on which a dam eligible to receive funding under paragraph (2) is located on the expenditure of funds; and

(iii) solicit and consider the input, comments, and recommendations of the landowners served by the Indian dam.

(B) EMERGENCIES.—If the Secretary determines that an emergency circumstance exists with respect to an Indian dam, subparagraph (A) shall not apply with respect to that Indian dam.

(5) ALLOCATION AMONG DAMS.—

(A) IN GENERAL.—Subject to subparagraph (B), to the maximum extent practicable, the Secretary shall ensure that, for each of fiscal years 2017 through 2023, each Indian dam eligible for funding under paragraph (2) that has critical maintenance needs receives part of the funding under paragraph (1) to address critical maintenance needs.

(B) PRIORITY.—In allocating amounts under paragraph (1)(B), in addition to considering the funding priorities described in paragraph (3), the Secretary shall give priority to Indian dams eligible for funding under paragraph (2) that serve—

(i) more than 1 Indian tribe within an Indian reservation; or

(ii) highly populated Indian communities, as determined by the Secretary.

(C) CAP ON FUNDING.—

(i) IN GENERAL.—Subject to clause (ii), in allocating amounts under paragraph (1)(B), the Secretary shall allocate not more than \$10,000,000 to any individual dam described in paragraph (2) during any consecutive 3-year period.

(ii) EXCEPTION.—Notwithstanding the cap described in clause (i), if the full amount under paragraph (1)(B) cannot be fully allocated to eligible Indian

dams because the costs of the remaining activities authorized in paragraph (1)(B) of an Indian dam would exceed the cap described in clause (i), the Secretary may allocate the remaining funds to eligible Indian dams in accordance with this subsection.

(D) BASIS OF FUNDING.—Any amounts made available under this paragraph shall be nonreimbursable.

(E) APPLICABILITY OF ISDEAA.—The Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.) shall apply to activities carried out under this paragraph.

(d) TRIBAL SAFETY OF DAMS COMMITTEE.—

(1) ESTABLISHMENT OF COMMITTEE.—

(A) ESTABLISHMENT.—The Secretary of the Interior shall establish within the Bureau of Indian Affairs the Tribal Safety of Dams Committee (referred to in this paragraph as the “Committee”).

(B) MEMBERSHIP.—

(i) COMPOSITION.—The Committee shall be composed of 15 members, of whom—

(I) 11 shall be appointed by the Secretary of the Interior from among individuals who, to the maximum extent practicable, have knowledge and expertise in dam safety issues and flood prevention and mitigation, of whom not less than 1 shall be a member of an Indian tribe in each of the Bureau of Indian Affairs regions of—

- (aa) the Northwest Region;
- (bb) the Pacific Region;
- (cc) the Western Region;
- (dd) the Navajo Region;
- (ee) the Southwest Region;
- (ff) the Rocky Mountain Region;
- (gg) the Great Plains Region; and
- (hh) the Midwest Region;

(II) 2 shall be appointed by the Secretary of the Interior from among employees of the Bureau of Indian Affairs who have knowledge and expertise in dam safety issues and flood prevention and mitigation;

(III) 1 shall be appointed by the Secretary of the Interior from among employees of the Bureau of Reclamation who have knowledge and expertise in dam safety issues and flood prevention and mitigation; and

(IV) 1 shall be appointed by the Secretary of the Army from among employees of the Corps of Engineers who have knowledge and expertise in dam safety issues and flood prevention and mitigation.

(ii) NONVOTING MEMBERS.—The members of the Committee appointed under subclauses (II) and (III) of clause (i) shall be nonvoting members.

(iii) DATE.—The appointments of the members of the Committee shall be made as soon as practicable after the date of enactment of this Act.



(C) PERIOD OF APPOINTMENT.—Members shall be appointed for the life of the Committee.

(D) VACANCIES.—Any vacancy in the Committee shall not affect the powers of the Committee, but shall be filled in the same manner as the original appointment.

(E) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Committee have been appointed, the Committee shall hold the first meeting.

(F) MEETINGS.—The Committee shall meet at the call of the Chairperson.

(G) QUORUM.—A majority of the members of the Committee shall constitute a quorum, but a lesser number of members may hold hearings.

(H) CHAIRPERSON AND VICE CHAIRPERSON.—The Committee shall select a Chairperson and Vice Chairperson from among the members.

(2) DUTIES OF THE COMMITTEE.—

(A) STUDY.—The Committee shall conduct a thorough study of all matters relating to the modernization of the Indian Dams Safety Act of 1994 (25 U.S.C. 3801 et seq.).

(B) RECOMMENDATIONS.—The Committee shall develop recommendations for legislation to improve the Indian Dams Safety Act of 1994 (25 U.S.C. 3801 et seq.).

(C) REPORT.—Not later than 1 year after the date on which the Committee holds the first meeting, the Committee shall submit a report containing a detailed statement of the findings and conclusions of the Committee, together with recommendations for legislation that the Committee considers appropriate, to—

(i) the Committee on Indian Affairs of the Senate;

and

(ii) the Committee on Natural Resources of the House of Representatives.

(3) POWERS OF THE COMMITTEE.—

(A) HEARINGS.—The Committee may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Committee considers appropriate to carry out this paragraph.

(B) INFORMATION FROM FEDERAL AGENCIES.—

(i) IN GENERAL.—The Committee may secure directly from any Federal department or agency such information as the Committee considers necessary to carry out this paragraph.

(ii) REQUEST.—On request of the Chairperson of the Committee, the head of any Federal department or agency shall furnish information described in clause (i) to the Committee.

(C) POSTAL SERVICES.—The Committee may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(D) GIFTS.—The Committee may accept, use, and dispose of gifts or donations of services or property.

(4) COMMITTEE PERSONNEL MATTERS.—

(A) COMPENSATION OF MEMBERS.—

(i) NON-FEDERAL MEMBERS.—Each member of the Committee who is not an officer or employee of the

Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Committee.

(ii) **FEDERAL MEMBERS.**—Each member of the Committee who is an officer or employee of the Federal Government shall serve without compensation in addition to that received for services as an officer or employee of the Federal Government.

(B) **TRAVEL EXPENSES.**—The members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Committee.

(C) **STAFF.**—

(i) **IN GENERAL.**—

(I) **APPOINTMENT.**—The Chairperson of the Committee may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Committee to perform the duties of the Committee.

(II) **CONFIRMATION.**—The employment of an executive director shall be subject to confirmation by the Committee.

(ii) **COMPENSATION.**—The Chairperson of the Committee may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.

(D) **DETAIL OF GOVERNMENT EMPLOYEES.**—Any Federal Government employee may be detailed to the Committee without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(E) **PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.**—The Chairperson of the Committee may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(5) **TERMINATION OF THE COMMITTEE.**—The Committee shall terminate 90 days after the date on which the Committee submits the report under paragraph (2)(C).

(6) **FUNDING.**—Of the amounts authorized to be expended from either Fund, \$1,000,000 shall be made available from either Fund during fiscal year 2017 to carry out this subsection, to remain available until expended.

(e) INDIAN DAM SURVEYS.—

(1) TRIBAL REPORTS.—The Secretary shall request that, not less frequently than once every 180 days, each Indian tribe submit to the Secretary a report providing an inventory of the dams located on the land of the Indian tribe.

(2) BIA REPORTS.—Not less frequently than once each year, the Secretary shall submit to Congress a report describing the condition of each dam under the partial or total jurisdiction of the Secretary.

(f) FLOOD PLAIN MANAGEMENT PILOT PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish, within the Bureau of Indian Affairs, a flood plain management pilot program (referred to in this subsection as the “program”) to provide, at the request of an Indian tribe, guidance to the Indian tribe relating to best practices for the mitigation and prevention of floods, including consultation with the Indian tribe on—

(A) flood plain mapping; or

(B) new construction planning.

(2) TERMINATION.—The program shall terminate on the date that is 4 years after the date of enactment of this Act.

(3) FUNDING.—Of the amounts authorized to be expended from either Fund, \$250,000 shall be made available from either Fund during each of fiscal years 2017, 2018, and 2019 to carry out this subsection, to remain available until expended.

## **Subtitle B—Irrigation Rehabilitation and Renovation for Indian Tribal Governments and Their Economies**

### **SEC. 3201. DEFINITIONS.**

In this subtitle:

(1) DEFERRED MAINTENANCE.—The term “deferred maintenance” means any maintenance activity that was delayed to a future date, in lieu of being carried out at the time at which the activity was scheduled to be, or otherwise should have been, carried out.

(2) FUND.—The term “Fund” means the Indian Irrigation Fund established by section 3211.

(3) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

(4) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

## **PART I—INDIAN IRRIGATION FUND**

### **SEC. 3211. ESTABLISHMENT.**

There is established in the Treasury of the United States a fund, to be known as the “Indian Irrigation Fund”, consisting of—

(1) such amounts as are deposited in the Fund under section 3212; and

(2) any interest earned on investment of amounts in the Fund under section 3214.

**SEC. 3212. DEPOSITS TO FUND.**

(a) **IN GENERAL.**—For each of fiscal years 2017 through 2021, the Secretary of the Treasury shall deposit in the Fund \$35,000,000 from the general fund of the Treasury.

(b) **AVAILABILITY OF AMOUNTS.**—Amounts deposited in the Fund under subsection (a) shall be used, subject to appropriation, to carry out this subtitle.

**SEC. 3213. EXPENDITURES FROM FUND.**

(a) **IN GENERAL.**—Subject to subsection (b), for each of fiscal years 2017 through 2021, the Secretary may, to the extent provided in advance in appropriations Acts, expend from the Fund, in accordance with this subtitle, not more than the sum of—

(1) \$35,000,000; and

(2) the amount of interest accrued in the Fund.

(b) **ADDITIONAL EXPENDITURES.**—The Secretary may expend more than \$35,000,000 for any fiscal year referred to in subsection (a) if the additional amounts are available in the Fund as a result of a failure of the Secretary to expend all of the amounts available under subsection (a) in 1 or more prior fiscal years.

**SEC. 3214. INVESTMENTS OF AMOUNTS.**

(a) **IN GENERAL.**—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary, required to meet current withdrawals.

(b) **CREDITS TO FUND.**—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to, and form a part of, the Fund.

**SEC. 3215. TRANSFERS OF AMOUNTS.**

(a) **IN GENERAL.**—The amounts required to be transferred to the Fund under this part shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(b) **ADJUSTMENTS.**—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates are in excess of or less than the amounts required to be transferred.

**SEC. 3216. TERMINATION.**

On September 30, 2021—

(1) the Fund shall terminate; and

(2) the unexpended and unobligated balance of the Fund shall be transferred to the general fund of the Treasury.

## **PART II—REPAIR, REPLACEMENT, AND MAINTENANCE OF CERTAIN INDIAN IRRIGATION PROJECTS**

**SEC. 3221. REPAIR, REPLACEMENT, AND MAINTENANCE OF CERTAIN INDIAN IRRIGATION PROJECTS.**

(a) **IN GENERAL.**—The Secretary shall establish a program to address the deferred maintenance needs and water storage needs of Indian irrigation projects that—

(1) create risks to public or employee safety or natural or cultural resources; and

(2) unduly impede the management and efficiency of the Indian irrigation program.

(b) FUNDING.—Consistent with section 3213, the Secretary shall use or transfer to the Bureau of Indian Affairs not less than \$35,000,000 of amounts in the Fund, plus accrued interest, for each of fiscal years 2017 through 2021 to carry out maintenance, repair, and replacement activities for 1 or more of the Indian irrigation projects described in section 3222 (including any structures, facilities, equipment, personnel, or vehicles used in connection with the operation of those projects), subject to the condition that the funds expended under this part shall not be—

(1) subject to reimbursement by the owners of the land served by the Indian irrigation projects; or

(2) assessed as debts or liens against the land served by the Indian irrigation projects.

**SEC. 3222. ELIGIBLE PROJECTS.**

The projects eligible for funding under section 3221(b) are the Indian irrigation projects in the western United States that, on the date of enactment of this Act—

(1) are owned by the Federal Government, as listed in the Federal inventory required by Executive Order 13327 (40 U.S.C. 121 note; relating to Federal real property asset management);

(2) are managed and operated by the Bureau of Indian Affairs (including projects managed, operated, or maintained under contracts or compacts pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.); and

(3) have deferred maintenance documented by the Bureau of Indian Affairs.

**SEC. 3223. REQUIREMENTS AND CONDITIONS.**

Not later than 120 days after the date of enactment of this Act and as a precondition to amounts being expended from the Fund to carry out this part, the Secretary, in consultation with the Assistant Secretary for Indian Affairs and representatives of affected Indian tribes, shall develop and submit to Congress—

(1) programmatic goals to carry out this part that—

(A) would enable the completion of repairing, replacing, modernizing, or performing maintenance on projects as expeditiously as practicable;

(B) facilitate or improve the ability of the Bureau of Indian Affairs to carry out the mission of the Bureau of Indian Affairs in operating a project;

(C) ensure that the results of government-to-government consultation required under section 3225 be addressed; and

(D) would facilitate the construction of new water storage using non-Federal contributions to address tribal, regional, and watershed-level supply needs; and

(2) funding prioritization criteria to serve as a methodology for distributing funds under this part, that take into account—

(A) the extent to which deferred maintenance of qualifying irrigation projects poses a threat to public or employee safety or health;

(B) the extent to which deferred maintenance poses a threat to natural or cultural resources;

(C) the extent to which deferred maintenance poses a threat to the ability of the Bureau of Indian Affairs

to carry out the mission of the Bureau of Indian Affairs in operating the project;

(D) the extent to which repairing, replacing, modernizing, or performing maintenance on a facility or structure will—

(i) improve public or employee safety, health, or accessibility;

(ii) assist in compliance with codes, standards, laws, or other requirements;

(iii) address unmet needs; and

(iv) assist in protecting natural or cultural resources;

(E) the methodology of the rehabilitation priority index of the Secretary, as in effect on the date of enactment of this Act;

(F) the potential economic benefits of the expenditures on job creation and general economic development in the affected tribal communities;

(G) the ability of the qualifying project to address tribal, regional, and watershed level water supply needs; and

(H) such other factors as the Secretary determines to be appropriate to prioritize the use of available funds that are, to the fullest extent practicable, consistent with tribal and user recommendations received pursuant to the consultation and input process under section 3225.

**SEC. 3224. STUDY OF INDIAN IRRIGATION PROGRAM AND PROJECT MANAGEMENT.**

(a) **TRIBAL CONSULTATION AND USER INPUT.**—Before beginning to conduct the study required under subsection (b), the Secretary shall—

(1) consult with the Indian tribes that have jurisdiction over the land on which an irrigation project eligible to receive funding under section 3222 is located; and

(2) solicit and consider the input, comments, and recommendations of—

(A) the landowners served by the irrigation project; and

(B) irrigators from adjacent irrigation districts.

(b) **STUDY.**—Not later than 2 years after the date of enactment of this Act, the Secretary, acting through the Assistant Secretary for Indian Affairs, shall complete a study that evaluates options for improving programmatic and project management and performance of irrigation projects managed and operated in whole or in part by the Bureau of Indian Affairs.

(c) **REPORT.**—On completion of the study under subsection (b), the Secretary, acting through the Assistant Secretary for Indian Affairs, shall submit to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources of the House of Representatives a report that—

(1) describes the results of the study;

(2) determines the cost to financially sustain each project;

(3) recommends whether management of each project could be improved by transferring management responsibilities to other Federal agencies or water user groups; and

(4) includes recommendations for improving programmatic and project management and performance—

(A) in each qualifying project area; and

(B) for the program as a whole.

(d) STATUS REPORT.—Not later than 2 years after the date of enactment of this Act, and not less frequently than every 2 years thereafter (until the end of fiscal year 2021), the Secretary, acting through the Assistant Secretary for Indian Affairs, shall submit to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources of the House of Representatives a report that includes a description of—

(1) the progress made toward addressing the deferred maintenance needs of the Indian irrigation projects described in section 3222, including a list of projects funded during the fiscal period covered by the report;

(2) the outstanding needs of those projects that have been provided funding to address the deferred maintenance needs pursuant to this part;

(3) the remaining needs of any of those projects;

(4) how the goals established pursuant to section 3223 have been met, including—

(A) an identification and assessment of any deficiencies or shortfalls in meeting those goals; and

(B) a plan to address the deficiencies or shortfalls in meeting those goals; and

(5) any other subject matters the Secretary, to the maximum extent practicable consistent with tribal and user recommendations received pursuant to the consultation and input process under section 3225, determines to be appropriate.

#### **SEC. 3225. TRIBAL CONSULTATION AND USER INPUT.**

Before expending funds on an Indian irrigation project pursuant to section 3221 and not later than 120 days after the date of enactment of this Act, the Secretary shall—

(1) consult with the Indian tribe that has jurisdiction over the land on which an irrigation project eligible to receive funding under section 3222 is located; and

(2) solicit and consider the input, comments, and recommendations of—

(A) the landowners served by the irrigation project; and

(B) irrigators from adjacent irrigation districts.

#### **SEC. 3226. ALLOCATION AMONG PROJECTS.**

(a) IN GENERAL.—Subject to subsection (b), to the maximum extent practicable, the Secretary shall ensure that, for each of fiscal years 2017 through 2021, each Indian irrigation project eligible for funding under section 3222 that has critical maintenance needs receives part of the funding under section 3221 to address critical maintenance needs.

(b) PRIORITY.—In allocating amounts under section 3221(b), in addition to considering the funding priorities described in section 3223, the Secretary shall give priority to eligible Indian irrigation projects serving more than 1 Indian tribe within an Indian reservation and to projects for which funding has not been made available during the 10-year period ending on the day before the date of enactment of this Act under any other Act of Congress that

expressly identifies the Indian irrigation project or the Indian reservation of the project to address the deferred maintenance, repair, or replacement needs of the Indian irrigation project.

(c) CAP ON FUNDING.—

(1) IN GENERAL.—Subject to paragraph (2), in allocating amounts under section 3221(b), the Secretary shall allocate not more than \$15,000,000 to any individual Indian irrigation project described in section 3222 during any consecutive 3-year period.

(2) EXCEPTION.—Notwithstanding the cap described in paragraph (1), if the full amount under section 3221(b) cannot be fully allocated to eligible Indian irrigation projects because the costs of the remaining activities authorized in section 3221(b) of an irrigation project would exceed the cap described in paragraph (1), the Secretary may allocate the remaining funds to eligible Indian irrigation projects in accordance with this part.

(d) BASIS OF FUNDING.—Any amounts made available under this section shall be nonreimbursable.

(e) APPLICABILITY OF ISDEAA.—The Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.) shall apply to activities carried out under this section.

## Subtitle C—Weber Basin Prepayments

### SEC. 3301. PREPAYMENT OF CERTAIN REPAYMENT OBLIGATIONS UNDER CONTRACTS BETWEEN THE UNITED STATES AND THE WEBER BASIN WATER CONSERVANCY DISTRICT.

The Secretary of the Interior shall allow for prepayment of repayment obligations under Repayment Contract No. 14–06–400–33 between the United States and the Weber Basin Water Conservancy District, dated December 12, 1952, and supplemented and amended on June 30, 1961, on April 15, 1966, on September 20, 1968, and on May 9, 1985, including future amendments and all related applicable contracts thereto, providing for repayment of Weber Basin Project construction costs allocated to irrigation and municipal and industrial purposes for which repayment is provided pursuant to such contracts under terms and conditions similar to those used in implementing the prepayment provisions in section 210 of the Central Utah Project Completion Act (Public Law 102–575), as amended, for prepayment of Central Utah Project, Bonneville Unit repayment obligations. The prepayment—

(1) shall result in the United States recovering the net present value of all repayment streams that would have been payable to the United States if this Act was not in effect;

(2) may be provided in several installments;

(3) may not be adjusted on the basis of the type of prepayment financing used by the District; and

(4) shall be made such that total repayment is made not later than September 30, 2026.



## Subtitle D—Pechanga Water Rights Settlement

### SEC. 3401. SHORT TITLE.

This subtitle may be cited as the “Pechanga Band of Luiseño Mission Indians Water Rights Settlement Act”.

Pechanga Band  
of Luiseño  
Mission Indians  
Water Rights  
Settlement Act.

### SEC. 3402. PURPOSES.

The purposes of this subtitle are—

(1) to achieve a fair, equitable, and final settlement of claims to water rights and certain claims for injuries to water rights in the Santa Margarita River Watershed for—

(A) the Band; and

(B) the United States, acting in its capacity as trustee for the Band and Allottees;

(2) to achieve a fair, equitable, and final settlement of certain claims by the Band and Allottees against the United States;

(3) to authorize, ratify, and confirm the Pechanga Settlement Agreement to be entered into by the Band, RCWD, and the United States;

(4) to authorize and direct the Secretary—

(A) to execute the Pechanga Settlement Agreement; and

(B) to take any other action necessary to carry out the Pechanga Settlement Agreement in accordance with this subtitle; and

(5) to authorize the appropriation of amounts necessary for the implementation of the Pechanga Settlement Agreement and this subtitle.

### SEC. 3403. DEFINITIONS.

In this subtitle:

(1) **ADJUDICATION COURT.**—The term “Adjudication Court” means the United States District Court for the Southern District of California, which exercises continuing jurisdiction over the Adjudication Proceeding.

(2) **ADJUDICATION PROCEEDING.**—The term “Adjudication Proceeding” means litigation initiated by the United States regarding relative water rights in the Santa Margarita River Watershed in *United States v. Fallbrook Public Utility District et al.*, Civ. No. 3:51-cv-01247 (S.D.C.A.), including any litigation initiated to interpret or enforce the relative water rights in the Santa Margarita River Watershed pursuant to the continuing jurisdiction of the Adjudication Court over the Fallbrook Decree.

(3) **ALLOTTEE.**—The term “Allottee” means an individual who holds a beneficial real property interest in an Indian allotment that is—

(A) located within the Reservation; and

(B) held in trust by the United States.

(4) **BAND.**—The term “Band” means Pechanga Band of Luiseño Mission Indians, a federally recognized sovereign Indian tribe that functions as a custom and tradition Indian tribe, acting on behalf of itself and its members, but not acting on behalf of members in their capacities as Allottees.

(5) CLAIMS.—The term “claims” means rights, claims, demands, actions, compensation, or causes of action, whether known or unknown.

(6) EMWD.—The term “EMWD” means Eastern Municipal Water District, a municipal water district organized and existing in accordance with the Municipal Water District Law of 1911, Division 20 of the Water Code of the State of California, as amended.

(7) EMWD CONNECTION FEE.—The term “EMWD Connection Fee” has the meaning set forth in the Extension of Service Area Agreement.

(8) ENFORCEABILITY DATE.—The term “enforceability date” means the date on which the Secretary publishes in the Federal Register the statement of findings described in section 3407(e).

(9) ESAA CAPACITY AGREEMENT.—The term “ESAA Capacity Agreement” means the “ESAA Capacity Agreement”, among the Band, RCWD, and the United States.

(10) ESAA WATER.—The term “ESAA Water” means imported potable water that the Band receives from EMWD and MWD pursuant to the Extension of Service Area Agreement and delivered by RCWD pursuant to the ESAA Water Delivery Agreement.

(11) ESAA WATER DELIVERY AGREEMENT.—The term “ESAA Water Delivery Agreement” means the agreement among EMWD, RCWD, and the Band, establishing the terms and conditions of water service to the Band.

(12) EXTENSION OF SERVICE AREA AGREEMENT.—The term “Extension of Service Area Agreement” means the “Extension of Service Area Agreement”, among the Band, EMWD, and MWD, for the provision of water service by EMWD to a designated portion of the Reservation using water supplied by MWD.

(13) FALLBROOK DECREE.—

(A) IN GENERAL.—The term “Fallbrook Decree” means the “Modified Final Judgment And Decree”, entered in the Adjudication Proceeding on April 6, 1966.

(B) INCLUSIONS.—The term “Fallbrook Decree” includes all court orders, interlocutory judgments, and decisions supplemental to the “Modified Final Judgment And Decree”, including Interlocutory Judgment No. 30, Interlocutory Judgment No. 35, and Interlocutory Judgment No. 41.

(14) FUND.—The term “Fund” means the Pechanga Settlement Fund established by section 3409.

(15) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

(16) INJURY TO WATER RIGHTS.—The term “injury to water rights” means an interference with, diminution of, or deprivation of water rights under Federal or State law.

(17) INTERIM CAPACITY.—The term “Interim Capacity” has the meaning set forth in the ESAA Capacity Agreement.

(18) INTERIM CAPACITY NOTICE.—The term “Interim Capacity Notice” has the meaning set forth in the ESAA Capacity Agreement.

(19) INTERLOCUTORY JUDGMENT NO. 41.—The term “Interlocutory Judgment No. 41” means Interlocutory Judgment No.

41 issued in the Adjudication Proceeding on November 8, 1962, including all court orders, judgments, and decisions supplemental to that interlocutory judgment.

(20) MWD.—The term “MWD” means the Metropolitan Water District of Southern California, a metropolitan water district organized and incorporated under the Metropolitan Water District Act of the State of California (Stats. 1969, Chapter 209, as amended).

(21) MWD CONNECTION FEE.—The term “MWD Connection Fee” has the meaning set forth in the Extension of Service Area Agreement.

(22) PECHANGA ESAA DELIVERY CAPACITY ACCOUNT.—The term “Pechanga ESAA Delivery Capacity account” means the account established by section 3409(c)(2).

(23) PECHANGA RECYCLED WATER INFRASTRUCTURE ACCOUNT.—The term “Pechanga Recycled Water Infrastructure account” means the account established by section 3409(c)(1).

(24) PECHANGA SETTLEMENT AGREEMENT.—The term “Pechanga Settlement Agreement” means the Pechanga Settlement Agreement, dated April 8, 2016, together with the exhibits to that agreement, entered into by the Band, the United States on behalf of the Band, its members and Allottees, MWD, EMWD, and RCWD, including—

- (A) the Extension of Service Area Agreement;
- (B) the ESAA Capacity Agreement; and
- (C) the ESAA Water Delivery Agreement.

(25) PECHANGA WATER CODE.—The term “Pechanga Water Code” means a water code to be adopted by the Band in accordance with section 3405(f).

(26) PECHANGA WATER FUND ACCOUNT.—The term “Pechanga Water Fund account” means the account established by section 3409(c)(3).

(27) PECHANGA WATER QUALITY ACCOUNT.—The term “Pechanga Water Quality account” means the account established by section 3409(c)(4).

(28) PERMANENT CAPACITY.—The term “Permanent Capacity” has the meaning set forth in the ESAA Capacity Agreement.

(29) PERMANENT CAPACITY NOTICE.—The term “Permanent Capacity Notice” has the meaning set forth in the ESAA Capacity Agreement.

(30) RCWD.—

(A) IN GENERAL.—The term “RCWD” means the Rancho California Water District organized pursuant to section 34000 et seq. of the California Water Code.

(B) INCLUSIONS.—The term “RCWD” includes all real property owners for whom RCWD acts as an agent pursuant to an agency agreement.

(31) RECYCLED WATER INFRASTRUCTURE AGREEMENT.—The term “Recycled Water Infrastructure Agreement” means the “Recycled Water Infrastructure Agreement” among the Band, RCWD, and the United States.

(32) RECYCLED WATER TRANSFER AGREEMENT.—The term “Recycled Water Transfer Agreement” means the “Recycled Water Transfer Agreement” between the Band and RCWD.

(33) RESERVATION.—

(A) IN GENERAL.—The term “Reservation” means the land depicted on the map attached to the Pechanga Settlement Agreement as Exhibit I.

(B) APPLICABILITY OF TERM.—The term “Reservation” shall be used solely for the purposes of the Pechanga Settlement Agreement, this subtitle, and any judgment or decree issued by the Adjudication Court approving the Pechanga Settlement Agreement.

(34) SANTA MARGARITA RIVER WATERSHED.—The term “Santa Margarita River Watershed” means the watershed that is the subject of the Adjudication Proceeding and the Fallbrook Decree.

(35) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(36) STATE.—The term “State” means the State of California.

(37) STORAGE POND.—The term “Storage Pond” has the meaning set forth in the Recycled Water Infrastructure Agreement.

(38) TRIBAL WATER RIGHT.—The term “Tribal Water Right” means the water rights ratified, confirmed, and declared to be valid for the benefit of the Band and Allottees, as set forth and described in section 3405.

#### **SEC. 3404. APPROVAL OF THE PECHANGA SETTLEMENT AGREEMENT.**

##### **(a) RATIFICATION OF PECHANGA SETTLEMENT AGREEMENT.—**

(1) IN GENERAL.—Except as modified by this subtitle, and to the extent that the Pechanga Settlement Agreement does not conflict with this subtitle, the Pechanga Settlement Agreement is authorized, ratified, and confirmed.

(2) AMENDMENTS.—Any amendment to the Pechanga Settlement Agreement is authorized, ratified, and confirmed, to the extent that the amendment is executed to make the Pechanga Settlement Agreement consistent with this subtitle.

##### **(b) EXECUTION OF PECHANGA SETTLEMENT AGREEMENT.—**

(1) IN GENERAL.—To the extent that the Pechanga Settlement Agreement does not conflict with this subtitle, the Secretary is directed to and promptly shall execute—

(A) the Pechanga Settlement Agreement (including any exhibit to the Pechanga Settlement Agreement requiring the signature of the Secretary); and

(B) any amendment to the Pechanga Settlement Agreement necessary to make the Pechanga Settlement Agreement consistent with this subtitle.

(2) MODIFICATIONS.—Nothing in this subtitle precludes the Secretary from approving modifications to exhibits to the Pechanga Settlement Agreement not inconsistent with this subtitle, to the extent those modifications do not otherwise require congressional approval pursuant to section 2116 of the Revised Statutes (25 U.S.C. 177) or other applicable Federal law.

##### **(c) ENVIRONMENTAL COMPLIANCE.—**

(1) IN GENERAL.—In implementing the Pechanga Settlement Agreement, the Secretary shall promptly comply with all applicable requirements of—

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

(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(C) all other applicable Federal environmental laws; and

(D) all regulations promulgated under the laws described in subparagraphs (A) through (C).

(2) EXECUTION OF THE PECHANGA SETTLEMENT AGREEMENT.—

(A) IN GENERAL.—Execution of the Pechanga Settlement Agreement by the Secretary under this section shall not constitute a major Federal action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) COMPLIANCE.—The Secretary is directed to carry out all Federal compliance necessary to implement the Pechanga Settlement Agreement.

(3) LEAD AGENCY.—The Bureau of Reclamation shall be designated as the lead agency with respect to environmental compliance.

#### SEC. 3405. TRIBAL WATER RIGHT.

(a) INTENT OF CONGRESS.—It is the intent of Congress to provide to each Allottee benefits that are equal to or exceed the benefits Allottees possess as of the date of enactment of this Act, taking into consideration—

(1) the potential risks, cost, and time delay associated with litigation that would be resolved by the Pechanga Settlement Agreement and this subtitle;

(2) the availability of funding under this subtitle;

(3) the availability of water from the Tribal Water Right and other water sources as set forth in the Pechanga Settlement Agreement; and

(4) the applicability of section 7 of the Act of February 8, 1887 (25 U.S.C. 381), and this subtitle to protect the interests of Allottees.

(b) CONFIRMATION OF TRIBAL WATER RIGHT.—

(1) IN GENERAL.—A Tribal Water Right of up to 4,994 acre-feet of water per year that, under natural conditions, is physically available on the Reservation is confirmed in accordance with the Findings of Fact and Conclusions of Law set forth in Interlocutory Judgment No. 41, as affirmed by the Fallbrook Decree.

(2) USE.—Subject to the terms of the Pechanga Settlement Agreement, this subtitle, the Fallbrook Decree, and applicable Federal law, the Band may use the Tribal Water Right for any purpose on the Reservation.

(c) HOLDING IN TRUST.—The Tribal Water Right, as set forth in subsection (b), shall—

(1) be held in trust by the United States on behalf of the Band and the Allottees in accordance with this section;

(2) include the priority dates described in Interlocutory Judgment No. 41, as affirmed by the Fallbrook Decree; and

(3) not be subject to forfeiture or abandonment.

(d) ALLOTTEES.—

(1) APPLICABILITY OF ACT OF FEBRUARY 8, 1887.—The provisions of section 7 of the Act of February 8, 1887 (25 U.S.C. 381), relating to the use of water for irrigation purposes shall apply to the Tribal Water Right.

(2) ENTITLEMENT TO WATER.—Any entitlement to water of an Allottee under Federal law shall be satisfied from the Tribal Water Right.

(3) ALLOCATIONS.—Allotted land located within the exterior boundaries of the Reservation shall be entitled to a just and equitable allocation of water for irrigation and domestic purposes from the Tribal Water Right.

(4) EXHAUSTION OF REMEDIES.—Before asserting any claim against the United States under section 7 of the Act of February 8, 1887 (25 U.S.C. 381), or any other applicable law, an Allottee shall exhaust remedies available under the Pechanga Water Code or other applicable tribal law.

(5) CLAIMS.—Following exhaustion of remedies available under the Pechanga Water Code or other applicable tribal law, an Allottee may seek relief under section 7 of the Act of February 8, 1887 (25 U.S.C. 381), or other applicable law.

(6) AUTHORITY.—The Secretary shall have the authority to protect the rights of Allottees as specified in this section.

(e) AUTHORITY OF BAND.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Band shall have authority to use, allocate, distribute, and lease the Tribal Water Right on the Reservation in accordance with—

(A) the Pechanga Settlement Agreement; and

(B) applicable Federal law.

(2) LEASES BY ALLOTTEES.—

(A) IN GENERAL.—An Allottee may lease any interest in land held by the Allottee, together with any water right determined to be appurtenant to that interest in land.

(B) WATER RIGHT APPURTENANT.—Any water right determined to be appurtenant to an interest in land leased by an Allottee shall be used on such land on the Reservation.

(f) PECHANGA WATER CODE.—

(1) IN GENERAL.—Not later than 18 months after the enforceability date, the Band shall enact a Pechanga Water Code, that provides for—

(A) the management, regulation, and governance of all uses of the Tribal Water Right in accordance with the Pechanga Settlement Agreement; and

(B) establishment by the Band of conditions, permit requirements, and other limitations relating to the storage, recovery, and use of the Tribal Water Right in accordance with the Pechanga Settlement Agreement.

(2) INCLUSIONS.—Subject to the approval of the Secretary, the Pechanga Water Code shall provide—

(A) that allocations of water to Allottees shall be satisfied with water from the Tribal Water Right;

(B) that charges for delivery of water for irrigation purposes for Allottees shall be assessed on a just and equitable basis;

(C) a process by which an Allottee may request that the Band provide water for irrigation or domestic purposes in accordance with this subtitle;

(D) a due process system for the consideration and determination by the Band of any request by an Allottee (or any successor in interest to an Allottee) for an allocation

of such water for irrigation or domestic purposes on allotted land, including a process for—

- (i) appeal and adjudication of any denied or disputed distribution of water; and
- (ii) resolution of any contested administrative decision; and

(E) a requirement that any Allottee with a claim relating to the enforcement of rights of the Allottee under the Pechanga Water Code or relating to the amount of water allocated to land of the Allottee must first exhaust remedies available to the Allottee under tribal law and the Pechanga Water Code before initiating an action against the United States or petitioning the Secretary pursuant to subsection (d)(4).

**(3) ACTION BY SECRETARY.—**

(A) **IN GENERAL.**—The Secretary shall administer the Tribal Water Right until the Pechanga Water Code is enacted and approved under this section.

(B) **APPROVAL.**—Any provision of the Pechanga Water Code and any amendment to the Pechanga Water Code that affects the rights of Allottees—

- (i) shall be subject to the approval of the Secretary; and
- (ii) shall not be valid until approved by the Secretary.

(C) **APPROVAL PERIOD.**—The Secretary shall approve or disapprove the Pechanga Water Code within a reasonable period of time after the date on which the Band submits the Pechanga Water Code to the Secretary for approval.

(g) **EFFECT.**—Except as otherwise specifically provided in this section, nothing in this subtitle—

- (1) authorizes any action by an Allottee against any individual or entity, or against the Band, under Federal, State, tribal, or local law; or
- (2) alters or affects the status of any action pursuant to section 1491(a) of title 28, United States Code.

**SEC. 3406. SATISFACTION OF CLAIMS.**

(a) **IN GENERAL.**—The benefits provided to the Band under the Pechanga Settlement Agreement and this subtitle shall be in complete replacement of, complete substitution for, and full satisfaction of all claims of the Band against the United States that are waived and released pursuant to section 3407.

(b) **ALLOTTEE CLAIMS.**—The benefits realized by the Allottees under this subtitle shall be in complete replacement of, complete substitution for, and full satisfaction of—

- (1) all claims that are waived and released pursuant to section 3407; and
- (2) any claims of the Allottees against the United States that the Allottees have or could have asserted that are similar in nature to any claim described in section 3407.

(c) **NO RECOGNITION OF WATER RIGHTS.**—Except as provided in section 3405(d), nothing in this subtitle recognizes or establishes any right of a member of the Band or an Allottee to water within the Reservation.

(d) CLAIMS RELATING TO DEVELOPMENT OF WATER FOR RESERVATION.—

(1) IN GENERAL.—The amounts authorized to be appropriated pursuant to section 3411 shall be used to satisfy any claim of the Allottees against the United States with respect to the development or protection of water resources for the Reservation.

(2) SATISFACTION OF CLAIMS.—Upon the complete appropriation of amounts authorized pursuant to section 3411, any claim of the Allottees against the United States with respect to the development or protection of water resources for the Reservation shall be deemed to have been satisfied.

**SEC. 3407. WAIVER OF CLAIMS.**

(a) IN GENERAL.—

(1) WAIVER OF CLAIMS BY THE BAND AND THE UNITED STATES ACTING IN ITS CAPACITY AS TRUSTEE FOR THE BAND.—

(A) IN GENERAL.—Subject to the retention of rights set forth in subsection (c), in return for recognition of the Tribal Water Right and other benefits as set forth in the Pechanga Settlement Agreement and this subtitle, the Band, and the United States, acting as trustee for the Band, are authorized and directed to execute a waiver and release of all claims for water rights within the Santa Margarita River Watershed that the Band, or the United States acting as trustee for the Band, asserted or could have asserted in any proceeding, including the Adjudication Proceeding, except to the extent that such rights are recognized in the Pechanga Settlement Agreement and this subtitle.

(B) CLAIMS AGAINST RCWD.—Subject to the retention of rights set forth in subsection (c) and notwithstanding any provisions to the contrary in the Pechanga Settlement Agreement, the Band and the United States, on behalf of the Band and Allottees, fully release, acquit, and discharge RCWD from—

(i) claims for injuries to water rights in the Santa Margarita River Watershed for land located within the Reservation arising or occurring at any time up to and including June 30, 2009;

(ii) claims for injuries to water rights in the Santa Margarita River Watershed for land located within the Reservation arising or occurring at any time after June 30, 2009, resulting from the diversion or use of water in a manner not in violation of the Pechanga Settlement Agreement or this subtitle;

(iii) claims for subsidence damage to land located within the Reservation arising or occurring at any time up to and including June 30, 2009;

(iv) claims for subsidence damage arising or occurring after June 30, 2009, to land located within the Reservation resulting from the diversion of underground water in a manner consistent with the Pechanga Settlement Agreement or this subtitle; and



(v) claims arising out of, or relating in any manner to, the negotiation or execution of the Pechanga Settlement Agreement or the negotiation or execution of this subtitle.

(2) CLAIMS BY THE UNITED STATES ACTING IN ITS CAPACITY AS TRUSTEE FOR ALLOTTEES.—Subject to the retention of claims set forth in subsection (c), in return for recognition of the Tribal Water Right and other benefits as set forth in the Pechanga Settlement Agreement and this subtitle, the United States, acting as trustee for Allottees, is authorized and directed to execute a waiver and release of all claims for water rights within the Santa Margarita River Watershed that the United States, acting as trustee for the Allottees, asserted or could have asserted in any proceeding, including the Adjudication Proceeding, except to the extent such rights are recognized in the Pechanga Settlement Agreement and this subtitle.

(3) CLAIMS BY THE BAND AGAINST THE UNITED STATES.—Subject to the retention of rights set forth in subsection (c), the Band, is authorized to execute a waiver and release of—

(A) all claims against the United States (including the agencies and employees of the United States) relating to claims for water rights in, or water of, the Santa Margarita River Watershed that the United States, acting in its capacity as trustee for the Band, asserted, or could have asserted, in any proceeding, including the Adjudication Proceeding, except to the extent that those rights are recognized in the Pechanga Settlement Agreement and this subtitle;

(B) all claims against the United States (including the agencies and employees of the United States) relating to damages, losses, or injuries to water, water rights, land, or natural resources due to loss of water or water rights (including damages, losses or injuries to hunting, fishing, gathering, or cultural rights due to loss of water or water rights, claims relating to interference with, diversion, or taking of water or water rights, or claims relating to failure to protect, acquire, replace, or develop water, water rights, or water infrastructure) in the Santa Margarita River Watershed that first accrued at any time up to and including the enforceability date;

(C) all claims against the United States (including the agencies and employees of the United States) relating to the pending litigation of claims relating to the water rights of the Band in the Adjudication Proceeding; and

(D) all claims against the United States (including the agencies and employees of the United States) relating to the negotiation or execution of the Pechanga Settlement Agreement or the negotiation or execution of this subtitle.

(b) EFFECTIVENESS OF WAIVERS AND RELEASES.—The waivers under subsection (a) shall take effect on the enforceability date.

(c) RESERVATION OF RIGHTS AND RETENTION OF CLAIMS.—Notwithstanding the waivers and releases authorized in this subtitle, the Band, on behalf of itself and the members of the Band, and the United States, acting in its capacity as trustee for the Band and Allottees, retain—

(1) all claims for enforcement of the Pechanga Settlement Agreement and this subtitle;

(2) all claims against any person or entity other than the United States and RCWD, including claims for monetary damages;

(3) all claims for water rights that are outside the jurisdiction of the Adjudication Court;

(4) all rights to use and protect water rights acquired on or after the enforceability date; and

(5) all remedies, privileges, immunities, powers, and claims, including claims for water rights, not specifically waived and released pursuant to this subtitle and the Pechanga Settlement Agreement.

(d) EFFECT OF PECHANGA SETTLEMENT AGREEMENT AND ACT.—Nothing in the Pechanga Settlement Agreement or this subtitle—

(1) affects the ability of the United States, acting as a sovereign, to take actions authorized by law, including any laws relating to health, safety, or the environment, including—

(A) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(B) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(C) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); and

(D) any regulations implementing the Acts described in subparagraphs (A) through (C);

(2) affects the ability of the United States to take actions acting as trustee for any other Indian tribe or an Allottee of any other Indian tribe;

(3) confers jurisdiction on any State court—

(A) to interpret Federal law regarding health, safety, or the environment;

(B) to determine the duties of the United States or other parties pursuant to Federal law regarding health, safety, or the environment; or

(C) to conduct judicial review of Federal agency action;

(4) waives any claim of a member of the Band in an individual capacity that does not derive from a right of the Band;

(5) limits any funding that RCWD would otherwise be authorized to receive under any Federal law, including, the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) as that Act applies to permanent facilities for water recycling, demineralization, and desalination, and distribution of nonpotable water supplies in Southern Riverside County, California;

(6) characterizes any amounts received by RCWD under the Pechanga Settlement Agreement or this subtitle as Federal for purposes of section 1649 of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h-32); or

(7) affects the requirement of any party to the Pechanga Settlement Agreement or any of the exhibits to the Pechanga Settlement Agreement to comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or the California Environmental Quality Act (Cal. Pub. Res. Code 21000 et seq.) prior to performing the respective obligations

of that party under the Pechanga Settlement Agreement or any of the exhibits to the Pechanga Settlement Agreement.

(e) ENFORCEABILITY DATE.—The enforceability date shall be the date on which the Secretary publishes in the Federal Register a statement of findings that—

(1) the Adjudication Court has approved and entered a judgment and decree approving the Pechanga Settlement Agreement in substantially the same form as Appendix 2 to the Pechanga Settlement Agreement;

(2) all amounts authorized by this subtitle have been deposited in the Fund;

(3) the waivers and releases authorized in subsection (a) have been executed by the Band and the Secretary;

(4) the Extension of Service Area Agreement—

(A) has been approved and executed by all the parties to the Extension of Service Area Agreement; and

(B) is effective and enforceable in accordance with the terms of the Extension of Service Area Agreement; and

(5) the ESAA Water Delivery Agreement—

(A) has been approved and executed by all the parties to the ESAA Water Delivery Agreement; and

(B) is effective and enforceable in accordance with the terms of the ESAA Water Delivery Agreement.

(f) TOLLING OF CLAIMS.—

(1) IN GENERAL.—Each applicable period of limitation and time-based equitable defense relating to a claim described in this section shall be tolled for the period beginning on the date of enactment of this Act and ending on the earlier of—

(A) April 30, 2030, or such alternate date after April 30, 2030, as is agreed to by the Band and the Secretary; or

(B) the enforceability date.

(2) EFFECTS OF SUBSECTION.—Nothing in this subsection revives any claim or tolls any period of limitation or time-based equitable defense that expired before the date of enactment of this Act.

(3) LIMITATION.—Nothing in this section precludes the tolling of any period of limitations or any time-based equitable defense under any other applicable law.

(g) TERMINATION.—

(1) IN GENERAL.—If all of the amounts authorized to be appropriated to the Secretary pursuant to this subtitle have not been made available to the Secretary by April 30, 2030—

(A) the waivers authorized by this section shall expire and have no force or effect; and

(B) all statutes of limitations applicable to any claim otherwise waived under this section shall be tolled until April 30, 2030.

(2) VOIDING OF WAIVERS.—If a waiver authorized by this section is void under paragraph (1)—

(A) the approval of the United States of the Pechanga Settlement Agreement under section 3404 shall be void and have no further force or effect;

(B) any unexpended Federal amounts appropriated or made available to carry out this subtitle, together with any interest earned on those amounts, and any water rights or contracts to use water and title to other property

acquired or constructed with Federal amounts appropriated or made available to carry out this subtitle shall be returned to the Federal Government, unless otherwise agreed to by the Band and the United States and approved by Congress; and

(C) except for Federal amounts used to acquire or develop property that is returned to the Federal Government under subparagraph (B), the United States shall be entitled to set off any Federal amounts appropriated or made available to carry out this subtitle that were expended or withdrawn, together with any interest accrued, against any claims against the United States relating to water rights asserted by the Band or Allottees in any future settlement of the water rights of the Band or Allottees.

**SEC. 3408. WATER FACILITIES.**

(a) **IN GENERAL.**—The Secretary shall, subject to the availability of appropriations, using amounts from the designated accounts of the Fund, provide the amounts necessary to fulfill the obligations of the Band under the Recycled Water Infrastructure Agreement and the ESAA Capacity Agreement, in an amount not to exceed the amounts deposited in the designated accounts for such purposes plus any interest accrued on such amounts from the date of deposit in the Fund to the date of disbursement from the Fund, in accordance with this subtitle and the terms and conditions of those agreements.

(b) **NONREIMBURSABILITY OF COSTS.**—All costs incurred by the Secretary in carrying out this section shall be nonreimbursable.

(c) **RECYCLED WATER INFRASTRUCTURE.**—

(1) **IN GENERAL.**—The Secretary shall, using amounts from the Pechanga Recycled Water Infrastructure account, provide amounts for the Storage Pond in accordance with this section.

(2) **STORAGE POND.**—

(A) **IN GENERAL.**—The Secretary shall, subject to the availability of appropriations, using amounts from the Pechanga Recycled Water Infrastructure account provide the amounts necessary for a Storage Pond in accordance with the Recycled Water Infrastructure Agreement, in an amount not to exceed \$2,656,374.

(B) **PROCEDURE.**—The procedure for the Secretary to provide amounts pursuant to this section shall be as set forth in the Recycled Water Infrastructure Agreement.

(C) **LIABILITY.**—The United States shall have no responsibility or liability for the Storage Pond.

(d) **ESAA DELIVERY CAPACITY.**—

(1) **IN GENERAL.**—The Secretary shall, using amounts from the Pechanga ESAA Delivery Capacity account, provide amounts for Interim Capacity and Permanent Capacity in accordance with this section.

(2) **INTERIM CAPACITY.**—

(A) **IN GENERAL.**—The Secretary shall, subject to the availability of appropriations, using amounts from the ESAA Delivery Capacity account, provide amounts necessary for the provision of Interim Capacity in accordance with the ESAA Capacity Agreement in an amount not to exceed \$1,000,000.

(B) PROCEDURE.—The procedure for the Secretary to provide amounts pursuant to this section shall be as set forth in the ESAA Capacity Agreement.

(C) LIABILITY.—The United States shall have no responsibility or liability for the Interim Capacity to be provided by RCWD or by the Band.

(D) TRANSFER TO BAND.—If RCWD does not provide the Interim Capacity Notice required pursuant to the ESAA Capacity Agreement by the date that is 60 days after the date required under the ESAA Capacity Agreement, the amounts in the Pechanga ESAA Delivery Capacity account for purposes of the provision of Interim Capacity and Permanent Capacity, including any interest that has accrued on those amounts, shall be available for use by the Band to provide alternative interim capacity in a manner that is similar to the Interim Capacity and Permanent Capacity that the Band would have received had RCWD provided such Interim Capacity and Permanent Capacity.

(3) PERMANENT CAPACITY.—

(A) IN GENERAL.—The Secretary shall, subject to the availability of appropriations, using amounts from the ESAA Delivery Capacity account, provide amounts necessary for the provision of Permanent Capacity in accordance with the ESAA Capacity Agreement.

(B) PROCEDURE.—The procedure for the Secretary to provide funds pursuant to this section shall be as set forth in the ESAA Capacity Agreement.

(C) LIABILITY.—The United States shall have no responsibility or liability for the Permanent Capacity to be provided by RCWD or by the Band.

(D) TRANSFER TO BAND.—If RCWD does not provide the Permanent Capacity Notice required pursuant to the ESAA Capacity Agreement by the date that is 5 years after the enforceability date, the amounts in the Pechanga ESAA Delivery Capacity account for purposes of the provision of Permanent Capacity, including any interest that has accrued on those amounts, shall be available for use by the Band to provide alternative Permanent Capacity in a manner that is similar to the Permanent Capacity that the Band would have received had RCWD provided such Permanent Capacity.

#### **SEC. 3409. PECHANGA SETTLEMENT FUND.**

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the “Pechanga Settlement Fund”, to be managed, invested, and distributed by the Secretary and to be available until expended, and, together with any interest earned on those amounts, to be used solely for the purpose of carrying out this subtitle.

(b) TRANSFERS TO FUND.—The Fund shall consist of such amounts as are deposited in the Fund under section 3411(a) of this subtitle, together with any interest earned on those amounts, which shall be available in accordance with subsection (e).

(c) ACCOUNTS OF PECHANGA SETTLEMENT FUND.—The Secretary shall establish in the Fund the following accounts:

(1) Pechanga Recycled Water Infrastructure account, consisting of amounts authorized pursuant to section 3411(a)(1).

(2) Pechanga ESAA Delivery Capacity account, consisting of amounts authorized pursuant to section 3411(a)(2).

(3) Pechanga Water Fund account, consisting of amounts authorized pursuant to section 3411(a)(3).

(4) Pechanga Water Quality account, consisting of amounts authorized pursuant to section 3411(a)(4).

(d) MANAGEMENT OF FUND.—The Secretary shall manage, invest, and distribute all amounts in the Fund in a manner that is consistent with the investment authority of the Secretary under—

(1) the first section of the Act of June 24, 1938 (25 U.S.C. 162a);

(2) the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.); and

(3) this section.

(e) AVAILABILITY OF AMOUNTS.—Amounts appropriated to, and deposited in, the Fund, including any investment earnings accrued from the date of deposit in the Fund through the date of disbursement from the Fund, shall be made available to the Band by the Secretary beginning on the enforceability date.

(f) WITHDRAWALS BY BAND PURSUANT TO THE AMERICAN INDIAN TRUST FUND MANAGEMENT REFORM ACT.—

(1) IN GENERAL.—The Band may withdraw all or part of the amounts in the Fund on approval by the Secretary of a tribal management plan submitted by the Band in accordance with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(2) REQUIREMENTS.—

(A) IN GENERAL.—In addition to the requirements under the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.), the tribal management plan under paragraph (1) shall require that the Band shall spend all amounts withdrawn from the Fund in accordance with this subtitle.

(B) ENFORCEMENT.—The Secretary may carry out such judicial or administrative actions as the Secretary determines to be necessary to enforce the tribal management plan to ensure that amounts withdrawn by the Band from the Fund under this subsection are used in accordance with this subtitle.

(g) WITHDRAWALS BY BAND PURSUANT TO AN EXPENDITURE PLAN.—

(1) IN GENERAL.—The Band may submit an expenditure plan for approval by the Secretary requesting that all or part of the amounts in the Fund be disbursed in accordance with the plan.

(2) REQUIREMENTS.—The expenditure plan under paragraph (1) shall include a description of the manner and purpose for which the amounts proposed to be disbursed from the Fund will be used, in accordance with subsection (h).

(3) APPROVAL.—If the Secretary determines that an expenditure plan submitted under this subsection is consistent with the purposes of this subtitle, the Secretary shall approve the plan.

(4) ENFORCEMENT.—The Secretary may carry out such judicial or administrative actions as the Secretary determines

necessary to enforce an expenditure plan to ensure that amounts disbursed under this subsection are used in accordance with this subtitle.

(h) **USES.**—Amounts from the Fund shall be used by the Band for the following purposes:

(1) **PECHANGA RECYCLED WATER INFRASTRUCTURE ACCOUNT.**—The Pechanga Recycled Water Infrastructure account shall be used for expenditures by the Band in accordance with section 3408(c).

(2) **PECHANGA ESAA DELIVERY CAPACITY ACCOUNT.**—The Pechanga ESAA Delivery Capacity account shall be used for expenditures by the Band in accordance with section 3408(d).

(3) **PECHANGA WATER FUND ACCOUNT.**—The Pechanga Water Fund account shall be used for—

(A) payment of the EMWD Connection Fee;

(B) payment of the MWD Connection Fee; and

(C) any expenses, charges, or fees incurred by the Band in connection with the delivery or use of water pursuant to the Pechanga Settlement Agreement.

(4) **PECHANGA WATER QUALITY ACCOUNT.**—The Pechanga Water Quality account shall be used by the Band to fund groundwater desalination activities within the Wolf Valley Basin.

(i) **LIABILITY.**—The Secretary and the Secretary of the Treasury shall not be liable for the expenditure of, or the investment of any amounts withdrawn from, the Fund by the Band under subsection (f) or (g).

(j) **NO PER CAPITA DISTRIBUTIONS.**—No portion of the Fund shall be distributed on a per capita basis to any member of the Band.

#### **SEC. 3410. MISCELLANEOUS PROVISIONS.**

(a) **WAIVER OF SOVEREIGN IMMUNITY BY THE UNITED STATES.**—Except as provided in subsections (a) through (c) of section 208 of the Department of Justice Appropriation Act, 1953 (43 U.S.C. 666), nothing in this subtitle waives the sovereign immunity of the United States.

(b) **OTHER TRIBES NOT ADVERSELY AFFECTED.**—Nothing in this subtitle quantifies or diminishes any land or water right, or any claim or entitlement to land or water, of an Indian tribe, band, or community other than the Band.

(c) **LIMITATION ON CLAIMS FOR REIMBURSEMENT.**—With respect to Indian land within the Reservation—

(1) the United States shall not submit against any Indian-owned land located within the Reservation any claim for reimbursement of the cost to the United States of carrying out this subtitle and the Pechanga Settlement Agreement; and

(2) no assessment of any Indian-owned land located within the Reservation shall be made regarding that cost.

(d) **EFFECT ON CURRENT LAW.**—Nothing in this section affects any provision of law (including regulations) in effect on the day before the date of enactment of this Act with respect to preenforcement review of any Federal environmental enforcement action.

#### **SEC. 3411. AUTHORIZATION OF APPROPRIATIONS.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) PECHANGA RECYCLED WATER INFRASTRUCTURE ACCOUNT.—There is authorized to be appropriated \$2,656,374, for deposit in the Pechanga Recycled Water Infrastructure account, to carry out the activities described in section 3408(c).

(2) PECHANGA ESAA DELIVERY CAPACITY ACCOUNT.—There is authorized to be appropriated \$17,900,000, for deposit in the Pechanga ESAA Delivery Capacity account, which amount shall be adjusted for changes in construction costs since June 30, 2009, as is indicated by ENR Construction Cost Index, 20-City Average, as applicable to the types of construction required for the Band to provide the infrastructure necessary for the Band to provide the Interim Capacity and Permanent Capacity in the event that RCWD elects not to provide the Interim Capacity or Permanent Capacity as set forth in the ESAA Capacity Agreement and contemplated in sections 3408(d)(2)(D) and 3408(d)(3)(D) of this subtitle, with such adjustment ending on the date on which funds authorized to be appropriated under this section have been deposited in the Fund.

(3) PECHANGA WATER FUND ACCOUNT.—There is authorized to be appropriated \$5,483,653, for deposit in the Pechanga Water Fund account, which amount shall be adjusted for changes in appropriate cost indices since June 30, 2009, with such adjustment ending on the date of deposit in the Fund, for the purposes set forth in section 3409(h)(3).

(4) PECHANGA WATER QUALITY ACCOUNT.—There is authorized to be appropriated \$2,460,000, for deposit in the Pechanga Water Quality account, which amount shall be adjusted for changes in appropriate cost indices since June 30, 2009, with such adjustment ending on the date of deposit in the Fund, for the purposes set forth in section 3409(h)(4).

#### **SEC. 3412. EXPIRATION ON FAILURE OF ENFORCEABILITY DATE.**

If the Secretary does not publish a statement of findings under section 3407(e) by April 30, 2021, or such alternative later date as is agreed to by the Band and the Secretary, as applicable—

(1) this subtitle expires on the later of May 1, 2021, or the day after the alternative date agreed to by the Band and the Secretary;

(2) any action taken by the Secretary and any contract or agreement pursuant to the authority provided under any provision of this subtitle shall be void;

(3) any amounts appropriated under section 3411, together with any interest on those amounts, shall immediately revert to the general fund of the Treasury; and

(4) any amounts made available under section 3411 that remain unexpended shall immediately revert to the general fund of the Treasury.

#### **SEC. 3413. ANTIDEFICIENCY.**

(a) IN GENERAL.—Notwithstanding any authorization of appropriations to carry out this subtitle, the expenditure or advance of any funds, and the performance of any obligation by the Department in any capacity, pursuant to this subtitle shall be contingent on the appropriation of funds for that expenditure, advance, or performance.



(b) **LIABILITY.**—The Department of the Interior shall not be liable for the failure to carry out any obligation or activity authorized by this subtitle if adequate appropriations are not provided to carry out this subtitle.

## **Subtitle E—Delaware River Basin Conservation**

### **SEC. 3501. FINDINGS.**

Congress finds that—

(1) the Delaware River Basin is a national treasure of great cultural, environmental, ecological, and economic importance;

(2) the Basin contains over 12,500 square miles of land in the States of Delaware, New Jersey, New York, and Pennsylvania, including nearly 800 square miles of bay and more than 2,000 tributary rivers and streams;

(3) the Basin is home to more than 8,000,000 people who depend on the Delaware River and the Delaware Bay as an economic engine, a place of recreation, and a vital habitat for fish and wildlife;

(4) the Basin provides clean drinking water to more than 15,000,000 people, including New York City, which relies on the Basin for approximately half of the drinking water supply of the city, and Philadelphia, whose most significant threat to the drinking water supply of the city is loss of forests and other natural cover in the Upper Basin, according to a study conducted by the Philadelphia Water Department;

(5) the Basin contributes \$25,000,000,000 annually in economic activity, provides \$21,000,000,000 in ecosystem goods and services per year, and is directly or indirectly responsible for 600,000 jobs with \$10,000,000,000 in annual wages;

(6) almost 180 species of fish and wildlife are considered special status species in the Basin due to habitat loss and degradation, particularly sturgeon, eastern oyster, horseshoe crabs, and red knots, which have been identified as unique species in need of habitat improvement;

(7) the Basin provides habitat for over 200 resident and migrant fish species, includes significant recreational fisheries, and is an important source of eastern oyster, blue crab, and the largest population of the American horseshoe crab;

(8) the annual dockside value of commercial eastern oyster fishery landings for the Delaware Estuary is nearly \$4,000,000, making it the fourth most lucrative fishery in the Delaware River Basin watershed, and proven management strategies are available to increase oyster habitat, abundance, and harvest;

(9) the Delaware Bay has the second largest concentration of shorebirds in North America and is designated as one of the 4 most important shorebird migration sites in the world;

(10) the Basin, 50 percent of which is forested, also has over 700,000 acres of wetland, more than 126,000 acres of which are recognized as internationally important, resulting in a landscape that provides essential ecosystem services, including recreation, commercial, and water quality benefits;

(11) much of the remaining exemplary natural landscape in the Basin is vulnerable to further degradation, as the Basin

gains approximately 10 square miles of developed land annually, and with new development, urban watersheds are increasingly covered by impervious surfaces, amplifying the quantity of polluted runoff into rivers and streams;

(12) the Delaware River is the longest undammed river east of the Mississippi; a critical component of the National Wild and Scenic Rivers System in the Northeast, with more than 400 miles designated; home to one of the most heavily visited National Park units in the United States, the Delaware Water Gap National Recreation Area; and the location of 6 National Wildlife Refuges;

(13) the Delaware River supports an internationally renowned cold water fishery in more than 80 miles of its northern headwaters that attracts tens of thousands of visitors each year and generates over \$21,000,000 in annual revenue through tourism and recreational activities;

(14) management of water volume in the Basin is critical to flood mitigation and habitat for fish and wildlife, and following 3 major floods along the Delaware River since 2004, the Governors of the States of Delaware, New Jersey, New York, and Pennsylvania have called for natural flood damage reduction measures to combat the problem, including restoring the function of riparian corridors;

(15) the Delaware River Port Complex (including docking facilities in the States of Delaware, New Jersey, and Pennsylvania) is one of the largest freshwater ports in the world, the Port of Philadelphia handles the largest volume of international tonnage and 70 percent of the oil shipped to the East Coast, and the Port of Wilmington, a full-service deepwater port and marine terminal supporting more than 12,000 jobs, is the busiest terminal on the Delaware River, handling more than 400 vessels per year with an annual import/export cargo tonnage of more than 4,000,000 tons;

(16) the Delaware Estuary, where freshwater from the Delaware River mixes with saltwater from the Atlantic Ocean, is one of the largest and most complex of the 28 estuaries in the National Estuary Program, and the Partnership for the Delaware Estuary works to improve the environmental health of the Delaware Estuary;

(17) the Delaware River Basin Commission is a Federal-interstate compact government agency charged with overseeing a unified approach to managing the river system and implementing important water resources management projects and activities throughout the Basin that are in the national interest;

(18) restoration activities in the Basin are supported through several Federal and State agency programs, and funding for those important programs should continue and complement the establishment of the Delaware River Basin Restoration Program, which is intended to build on and help coordinate restoration and protection funding mechanisms at the Federal, State, regional, and local levels; and

(19) the existing and ongoing voluntary conservation efforts in the Delaware River Basin necessitate improved efficiency and cost effectiveness, as well as increased private-sector investments and coordination of Federal and non-Federal resources.

**SEC. 3502. DEFINITIONS.**

In this subtitle:

(1) **BASIN.**—The term “Basin” means the 4-State Delaware Basin region, including all of Delaware Bay and portions of the States of Delaware, New Jersey, New York, and Pennsylvania located in the Delaware River watershed.

(2) **BASIN STATE.**—The term “Basin State” means each of the States of Delaware, New Jersey, New York, and Pennsylvania.

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

(4) **GRANT PROGRAM.**—The term “grant program” means the voluntary Delaware River Basin Restoration Grant Program established under section 3504.

(5) **PROGRAM.**—The term “program” means the nonregulatory Delaware River Basin restoration program established under section 3503.

(6) **RESTORATION AND PROTECTION.**—The term “restoration and protection” means the conservation, stewardship, and enhancement of habitat for fish and wildlife to preserve and improve ecosystems and ecological processes on which they depend, and for use and enjoyment by the public.

(7) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior, acting through the Director.

(8) **SERVICE.**—The term “Service” means the United States Fish and Wildlife Service.

**SEC. 3503. PROGRAM ESTABLISHMENT.**

(a) **ESTABLISHMENT.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish a nonregulatory program to be known as the “Delaware River Basin restoration program”.

(b) **DUTIES.**—In carrying out the program, the Secretary shall—

(1) draw on existing plans for the Basin, or portions of the Basin, and work in consultation with applicable management entities, including representatives of the Partnership for the Delaware Estuary, the Delaware River Basin Commission, the Federal Government, and other State and local governments, and regional organizations, as appropriate, to identify, prioritize, and implement restoration and protection activities within the Basin;

(2) adopt a Basinwide strategy that—

(A) supports the implementation of a shared set of science-based restoration and protection activities developed in accordance with paragraph (1);

(B) targets cost-effective projects with measurable results; and

(C) maximizes conservation outcomes with no net gain of Federal full-time equivalent employees; and

(3) establish the voluntary grant and technical assistance programs in accordance with section 3504.

(c) **COORDINATION.**—In establishing the program, the Secretary shall consult, as appropriate, with—

(1) the heads of Federal agencies, including—

(A) the Administrator of the Environmental Protection Agency;

(B) the Administrator of the National Oceanic and Atmospheric Administration;

(C) the Chief of the Natural Resources Conservation Service;

(D) the Chief of Engineers; and

(E) the head of any other applicable agency;

(2) the Governors of the Basin States;

(3) the Partnership for the Delaware Estuary;

(4) the Delaware River Basin Commission;

(5) fish and wildlife joint venture partnerships; and

(6) other public agencies and organizations with authority for the planning and implementation of conservation strategies in the Basin.

(d) PURPOSES.—The purposes of the program include—

(1) coordinating restoration and protection activities among Federal, State, local, and regional entities and conservation partners throughout the Basin; and

(2) carrying out coordinated restoration and protection activities, and providing for technical assistance throughout the Basin and Basin States—

(A) to sustain and enhance fish and wildlife habitat restoration and protection activities;

(B) to improve and maintain water quality to support fish and wildlife, as well as the habitats of fish and wildlife, and drinking water for people;

(C) to sustain and enhance water management for volume and flood damage mitigation improvements to benefit fish and wildlife habitat;

(D) to improve opportunities for public access and recreation in the Basin consistent with the ecological needs of fish and wildlife habitat;

(E) to facilitate strategic planning to maximize the resilience of natural systems and habitats under changing watershed conditions;

(F) to engage the public through outreach, education, and citizen involvement, to increase capacity and support for coordinated restoration and protection activities in the Basin;

(G) to increase scientific capacity to support the planning, monitoring, and research activities necessary to carry out coordinated restoration and protection activities; and

(H) to provide technical assistance to carry out restoration and protection activities in the Basin.

#### SEC. 3504. GRANTS AND ASSISTANCE.

(a) DELAWARE RIVER BASIN RESTORATION GRANT PROGRAM.—To the extent that funds are available to carry out this section, the Secretary shall establish a voluntary grant and technical assistance program to be known as the “Delaware River Basin Restoration Grant Program” to provide competitive matching grants of varying amounts to State and local governments, nonprofit organizations, institutions of higher education, and other eligible entities to carry out activities described in section 3503(d).

(b) CRITERIA.—The Secretary, in consultation with the organizations described in section 3503(c), shall develop criteria for the grant program to help ensure that activities funded under this section accomplish one or more of the purposes identified in section

3503(d)(2) and advance the implementation of priority actions or needs identified in the Basinwide strategy adopted under section 3503(b)(2).

(c) **COST SHARING.**—

(1) **FEDERAL SHARE.**—The Federal share of the cost of a project funded under the grant program shall not exceed 50 percent of the total cost of the activity, as determined by the Secretary.

(2) **NON-FEDERAL SHARE.**—The non-Federal share of the cost of a project funded under the grant program may be provided in cash or in the form of an in-kind contribution of services or materials.

**SEC. 3505. ANNUAL LETTER.**

Not later than 180 days after the date of enactment of this Act and annually thereafter, the Secretary shall submit to Congress a detailed letter on the implementation of this subtitle, including a description of each project that has received funding under this subtitle.

**SEC. 3506. PROHIBITION ON USE OF FUNDS FOR FEDERAL ACQUISITION OF INTERESTS IN LAND.**

No funds may be appropriated or used under this subtitle for acquisition by the Federal Government of any interest in land.

**SEC. 3507. SUNSET.**

This subtitle shall have no force or effect after September 30, 2023.

## **Subtitle F—Miscellaneous Provisions**

**SEC. 3601. BUREAU OF RECLAMATION DAKOTAS AREA OFFICE PERMIT FEES FOR CABINS AND TRAILERS.**

During the period ending 5 years after the date of enactment of this Act, the Secretary of the Interior shall not increase the permit fee for a cabin or trailer on land in the State of North Dakota administered by the Dakotas Area Office of the Bureau of Reclamation by more than 33 percent of the permit fee that was in effect on January 1, 2016.

**SEC. 3602. USE OF TRAILER HOMES AT HEART BUTTE DAM AND RESERVOIR (LAKE TSCHIDA).**

(a) **DEFINITIONS.**—In this section:

(1) **ADDITION.**—The term “addition” means any enclosed structure added onto the structure of a trailer home that increases the living area of the trailer home.

(2) **CAMPER OR RECREATIONAL VEHICLE.**—The term “camper or recreational vehicle” includes—

(A) a camper, motorhome, trailer camper, bumper hitch camper, fifth wheel camper, or equivalent mobile shelter; and

(B) a recreational vehicle.

(3) **IMMEDIATE FAMILY.**—The term “immediate family” means a spouse, grandparent, parent, sibling, child, or grandchild.

(4) **PERMIT.**—The term “permit” means a permit issued by the Secretary authorizing the use of a lot in a trailer area.

(5) PERMIT YEAR.—The term “permit year” means the period beginning on April 1 of a calendar year and ending on March 31 of the following calendar year.

(6) PERMITTEE.—The term “permittee” means a person holding a permit.

(7) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(8) TRAILER AREA.—The term “trailer area” means any of the following areas at Heart Butte Dam and Reservoir (Lake Tschida) (as described in the document of the Bureau of Reclamation entitled “Heart Butte Reservoir Resource Management Plan” (March 2008)):

(A) Trailer Area 1 and 2, also known as Management Unit 034.

(B) Southside Trailer Area, also known as Management Unit 014.

(9) TRAILER HOME.—The term “trailer home” means a dwelling placed on a supporting frame that—

(A) has or had a tow-hitch; and

(B) is made mobile, or is capable of being made mobile, by an axle and wheels.

(b) PERMIT RENEWAL AND PERMITTED USE.—

(1) IN GENERAL.—The Secretary shall use the same permit renewal process for trailer area permits as the Secretary uses for other permit renewals in other reservoirs in the State of North Dakota administered by the Dakotas Area Office of the Bureau of Reclamation.

(2) TRAILER HOMES.—With respect to a trailer home, a permit for each permit year shall authorize the permittee—

(A) to park the trailer home on the lot;

(B) to use the trailer home on the lot;

(C) to physically move the trailer home on and off the lot; and

(D) to leave on the lot any addition, deck, porch, entryway, step to the trailer home, propane tank, or storage shed.

(3) CAMPERS OR RECREATIONAL VEHICLES.—With respect to a camper or recreational vehicle, a permit shall, for each permit year—

(A) from April 1 to October 31, authorize the permittee—

(i) to park the camper or recreational vehicle on the lot;

(ii) to use the camper or recreational vehicle on the lot; and

(iii) to move the camper or recreational vehicle on and off the lot; and

(B) from November 1 to March 31, require a permittee to remove the camper or recreational vehicle from the lot.

(c) REMOVAL.—

(1) IN GENERAL.—The Secretary may require removal of a trailer home from a lot in a trailer area if the trailer home is flooded after the date of enactment of this Act.

(2) REMOVAL AND NEW USE.—If the Secretary requires removal of a trailer home under paragraph (1), on request by the permittee, the Secretary shall authorize the permittee—

(A) to replace the trailer home on the lot with a camper or recreational vehicle in accordance with this section; or

(B) to place a trailer home on the lot from April 1 to October 31.

(d) TRANSFER OF PERMITS.—

(1) TRANSFER OF TRAILER HOME TITLE.—If a permittee transfers title to a trailer home permitted on a lot in a trailer area, the Secretary shall issue a permit to the transferee, under the same terms as the permit applicable on the date of transfer, subject to the conditions described in paragraph (3).

(2) TRANSFER OF CAMPER OR RECREATIONAL VEHICLE TITLE.—If a permittee who has a permit to use a camper or recreational vehicle on a lot in a trailer area transfers title to the interests of the permittee on or to the lot, the Secretary shall issue a permit to the transferee, subject to the conditions described in paragraph (3).

(3) CONDITIONS.—A permit issued by the Secretary under paragraph (1) or (2) shall be subject to the following conditions:

(A) A permit may not be held in the name of a corporation.

(B) A permittee may not have an interest in, or control of, more than 1 seasonal trailer home site in the Great Plains Region of the Bureau of Reclamation, inclusive of sites located on tracts permitted to organized groups on Reclamation reservoirs.

(C) Not more than 2 persons may be permittees under 1 permit, unless—

(i) approved by the Secretary; or

(ii) the additional persons are immediate family members of the permittees.

(e) ANCHORING REQUIREMENTS FOR TRAILER HOMES.—The Secretary shall require compliance with appropriate anchoring requirements for each trailer home (including additions to the trailer home) and other objects on a lot in a trailer area, as determined by the Secretary, after consulting with permittees.

(f) REPLACEMENT, REMOVAL, AND RETURN.—

(1) REPLACEMENT.—Permittees may replace their trailer home with another trailer home.

(2) REMOVAL AND RETURN.—Permittees may—

(A) remove their trailer home; and

(B) if the permittee removes their trailer home under subparagraph (A), return the trailer home to the lot of the permittee.

(g) LIABILITY; TAKING.—

(1) LIABILITY.—The United States shall not be liable for flood damage to the personal property of a permittee or for damages arising out of any act, omission, or occurrence relating to a lot to which a permit applies, other than for damages caused by an act or omission of the United States or an employee, agent, or contractor of the United States before the date of enactment of this Act.

(2) TAKING.—Any temporary flooding or flood damage to the personal property of a permittee shall not be a taking by the United States.

**SEC. 3603. LAKE TAHOE RESTORATION.**

(a) FINDINGS AND PURPOSES.—The Lake Tahoe Restoration Act (Public Law 106–506; 114 Stat. 2351) is amended by striking section 2 and inserting the following:

**“SEC. 2. FINDINGS AND PURPOSES.**

“(a) FINDINGS.—Congress finds that—

“(1) Lake Tahoe—

“(A) is one of the largest, deepest, and clearest lakes in the world;

“(B) has a cobalt blue color, a biologically diverse alpine setting, and remarkable water clarity; and

“(C) is recognized nationally and worldwide as a natural resource of special significance;

“(2) in addition to being a scenic and ecological treasure, the Lake Tahoe Basin is one of the outstanding recreational resources of the United States, which—

“(A) offers skiing, water sports, biking, camping, and hiking to millions of visitors each year; and

“(B) contributes significantly to the economies of California, Nevada, and the United States;

“(3) the economy in the Lake Tahoe Basin is dependent on the conservation and restoration of the natural beauty and recreation opportunities in the area;

“(4) the ecological health of the Lake Tahoe Basin continues to be challenged by the impacts of land use and transportation patterns developed in the last century;

“(5) the alteration of wetland, wet meadows, and stream zone habitat have compromised the capacity of the watershed to filter sediment, nutrients, and pollutants before reaching Lake Tahoe;

“(6) forests in the Lake Tahoe Basin suffer from over a century of fire damage and periodic drought, which have resulted in—

“(A) high tree density and mortality;

“(B) the loss of biological diversity; and

“(C) a large quantity of combustible forest fuels, which significantly increases the threat of catastrophic fire and insect infestation;

“(7) the establishment of several aquatic and terrestrial invasive species (including perennial pepperweed, milfoil, and Asian clam) threatens the ecosystem of the Lake Tahoe Basin;

“(8) there is an ongoing threat to the economy and ecosystem of the Lake Tahoe Basin of the introduction and establishment of other invasive species (such as yellow starthistle, New Zealand mud snail, Zebra mussel, and quagga mussel);

“(9) 78 percent of the land in the Lake Tahoe Basin is administered by the Federal Government, which makes it a Federal responsibility to restore ecological health to the Lake Tahoe Basin;

“(10) the Federal Government has a long history of environmental stewardship at Lake Tahoe, including—



“(A) congressional consent to the establishment of the Planning Agency with—

“(i) the enactment in 1969 of Public Law 91–148 (83 Stat. 360); and

“(ii) the enactment in 1980 of Public Law 96–551 (94 Stat. 3233);

“(B) the establishment of the Lake Tahoe Basin Management Unit in 1973;

“(C) the enactment of Public Law 96–586 (94 Stat. 3381) in 1980 to provide for the acquisition of environmentally sensitive land and erosion control grants in the Lake Tahoe Basin;

“(D) the enactment of sections 341 and 342 of the Department of the Interior and Related Agencies Appropriations Act, 2004 (Public Law 108–108; 117 Stat. 1317), which amended the Southern Nevada Public Land Management Act of 1998 (Public Law 105–263; 112 Stat. 2346) to provide payments for the environmental restoration programs under this Act; and

“(E) the enactment of section 382 of the Tax Relief and Health Care Act of 2006 (Public Law 109–432; 120 Stat. 3045), which amended the Southern Nevada Public Land Management Act of 1998 (Public Law 105–263; 112 Stat. 2346) to authorize development and implementation of a comprehensive 10-year hazardous fuels and fire prevention plan for the Lake Tahoe Basin;

“(11) the Assistant Secretary was an original signatory in 1997 to the Agreement of Federal Departments on Protection of the Environment and Economic Health of the Lake Tahoe Basin;

“(12) the Chief of Engineers, under direction from the Assistant Secretary, has continued to be a significant contributor to Lake Tahoe Basin restoration, including—

“(A) stream and wetland restoration; and

“(B) programmatic technical assistance;

“(13) at the Lake Tahoe Presidential Forum in 1997, the President renewed the commitment of the Federal Government to Lake Tahoe by—

“(A) committing to increased Federal resources for ecological restoration at Lake Tahoe; and

“(B) establishing the Federal Interagency Partnership and Federal Advisory Committee to consult on natural resources issues concerning the Lake Tahoe Basin;

“(14) at the 2011 and 2012 Lake Tahoe Forums, Senator Reid, Senator Feinstein, Senator Heller, Senator Ensign, Governor Gibbons, Governor Sandoval, and Governor Brown—

“(A) renewed their commitment to Lake Tahoe; and

“(B) expressed their desire to fund the Federal and State shares of the Environmental Improvement Program through 2022;

“(15) since 1997, the Federal Government, the States of California and Nevada, units of local government, and the private sector have contributed more than \$1,955,500,000 to the Lake Tahoe Basin, including—

“(A) \$635,400,000 from the Federal Government;

“(B) \$758,600,000 from the State of California;

“(C) \$123,700,000 from the State of Nevada;

“(D) \$98,900,000 from units of local government; and

“(E) \$338,900,000 from private interests;

“(16) significant additional investment from Federal, State, local, and private sources is necessary—

“(A) to restore and sustain the ecological health of the Lake Tahoe Basin;

“(B) to adapt to the impacts of fluctuating water temperature and precipitation; and

“(C) to prevent the introduction and establishment of invasive species in the Lake Tahoe Basin; and

“(17) the Secretary has indicated that the Lake Tahoe Basin Management Unit has the capacity for at least \$10,000,000 annually for the Fire Risk Reduction and Forest Management Program.

“(b) PURPOSES.—The purposes of this Act are—

“(1) to enable the Chief of the Forest Service, the Director of the United States Fish and Wildlife Service, and the Administrator, in cooperation with the Planning Agency and the States of California and Nevada, to fund, plan, and implement significant new environmental restoration activities and forest management activities in the Lake Tahoe Basin;

“(2) to ensure that Federal, State, local, regional, tribal, and private entities continue to work together to manage land in the Lake Tahoe Basin;

“(3) to support local governments in efforts related to environmental restoration, stormwater pollution control, fire risk reduction, and forest management activities; and

“(4) to ensure that agency and science community representatives in the Lake Tahoe Basin work together—

“(A) to develop and implement a plan for integrated monitoring, assessment, and applied research to evaluate the effectiveness of the Environmental Improvement Program; and

“(B) to provide objective information as a basis for ongoing decisionmaking, with an emphasis on decision-making relating to resource management in the Lake Tahoe Basin.”

(b) DEFINITIONS.—The Lake Tahoe Restoration Act (Public Law 106–506; 114 Stat. 2351) is amended by striking section 3 and inserting the following:

**“SEC. 3. DEFINITIONS.**

“In this Act:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Environmental Protection Agency.

“(2) ASSISTANT SECRETARY.—The term ‘Assistant Secretary’ means the Assistant Secretary of the Army for Civil Works.

“(3) CHAIR.—The term ‘Chair’ means the Chair of the Federal Partnership.

“(4) COMPACT.—The term ‘Compact’ means the Tahoe Regional Planning Compact included in the first section of Public Law 96–551 (94 Stat. 3233).

“(5) DIRECTORS.—The term ‘Directors’ means—

“(A) the Director of the United States Fish and Wildlife Service; and

“(B) the Director of the United States Geological Survey.

“(6) ENVIRONMENTAL IMPROVEMENT PROGRAM.—The term ‘Environmental Improvement Program’ means—

“(A) the Environmental Improvement Program adopted by the Planning Agency; and

“(B) any amendments to the Program.

“(7) ENVIRONMENTAL THRESHOLD CARRYING CAPACITY.—The term ‘environmental threshold carrying capacity’ has the meaning given the term in Article II of the Compact.

“(8) FEDERAL PARTNERSHIP.—The term ‘Federal Partnership’ means the Lake Tahoe Federal Interagency Partnership established by Executive Order 13057 (62 Fed. Reg. 41249) (or a successor Executive order).

“(9) FOREST MANAGEMENT ACTIVITY.—The term ‘forest management activity’ includes—

“(A) prescribed burning for ecosystem health and hazardous fuels reduction;

“(B) mechanical and minimum tool treatment;

“(C) stream environment zone restoration and other watershed and wildlife habitat enhancements;

“(D) nonnative invasive species management; and

“(E) other activities consistent with Forest Service practices, as the Secretary determines to be appropriate.

“(10) MAPS.—The term ‘Maps’ means the maps—

“(A) entitled—

“(i) ‘LTRA USFS–CA Land Exchange/North Shore’;

“(ii) ‘LTRA USFS–CA Land Exchange/West Shore’;

and

“(iii) ‘LTRA USFS–CA Land Exchange/South Shore’; and

“(B) dated January 4, 2016, and on file and available for public inspection in the appropriate offices of—

“(i) the Forest Service;

“(ii) the California Tahoe Conservancy; and

“(iii) the California Department of Parks and Recreation.

“(11) NATIONAL WILDLAND FIRE CODE.—The term ‘national wildland fire code’ means—

“(A) the most recent publication of the National Fire Protection Association codes numbered 1141, 1142, 1143, and 1144;

“(B) the most recent publication of the International Wildland-Urban Interface Code of the International Code Council; or

“(C) any other code that the Secretary determines provides the same, or better, standards for protection against wildland fire as a code described in subparagraph (A) or (B).

“(12) PLANNING AGENCY.—The term ‘Planning Agency’ means the Tahoe Regional Planning Agency established under Public Law 91–148 (83 Stat. 360) and Public Law 96–551 (94 Stat. 3233).

“(13) PRIORITY LIST.—The term ‘Priority List’ means the environmental restoration priority list developed under section 5(b).

“(14) SECRETARY.—The term ‘Secretary’ means the Secretary of Agriculture, acting through the Chief of the Forest Service.

“(15) STREAM ENVIRONMENT ZONE.—The term ‘Stream Environment Zone’ means an area that generally owes the biological and physical characteristics of the area to the presence of surface water or groundwater.

“(16) TOTAL MAXIMUM DAILY LOAD.—The term ‘total maximum daily load’ means the total maximum daily load allocations adopted under section 303(d) of the Federal Water Pollution Control Act (33 U.S.C. 1313(d)).

“(17) WATERCRAFT.—The term ‘watercraft’ means motorized and non-motorized watercraft, including boats, seaplanes, personal watercraft, kayaks, and canoes.”.

(c) IMPROVED ADMINISTRATION OF THE LAKE TAHOE BASIN MANAGEMENT UNIT.—Section 4 of the Lake Tahoe Restoration Act (Public Law 106-506; 114 Stat. 2353) is amended—

(1) in subsection (b)(3), by striking “basin” and inserting “Basin”; and

(2) by adding at the end the following:

“(c) FOREST MANAGEMENT ACTIVITIES.—

“(1) COORDINATION.—

“(A) IN GENERAL.—In conducting forest management activities in the Lake Tahoe Basin Management Unit, the Secretary shall, as appropriate, coordinate with the Administrator and State and local agencies and organizations, including local fire departments and volunteer groups.

“(B) GOALS.—The coordination of activities under subparagraph (A) should aim to increase efficiencies and maximize the compatibility of management practices across public property boundaries.

“(2) MULTIPLE BENEFITS.—

“(A) IN GENERAL.—In conducting forest management activities in the Lake Tahoe Basin Management Unit, the Secretary shall conduct the activities in a manner that—

“(i) except as provided in subparagraph (B), attains multiple ecosystem benefits, including—

“(I) reducing forest fuels;

“(II) maintaining biological diversity;

“(III) improving wetland and water quality, including in Stream Environment Zones; and

“(IV) increasing resilience to changing water temperature and precipitation; and

“(ii) helps achieve and maintain the environmental threshold carrying capacities established by the Planning Agency.

“(B) EXCEPTION.—Notwithstanding subparagraph (A)(i), the attainment of multiple ecosystem benefits shall not be required if the Secretary determines that management for multiple ecosystem benefits would excessively increase the cost of a program in relation to the additional ecosystem benefits gained from the management activity.

“(3) GROUND DISTURBANCE.—Consistent with applicable Federal law and Lake Tahoe Basin Management Unit land and resource management plan direction, the Secretary shall—

“(A) establish post-program ground condition criteria for ground disturbance caused by forest management activities; and

“(B) provide for monitoring to ascertain the attainment of the post-program conditions.

“(4) AVAILABILITY OF CATEGORICAL EXCLUSION FOR CERTAIN FOREST MANAGEMENT PROJECTS.—A forest management activity conducted in the Lake Tahoe Basin Management Unit for the purpose of reducing forest fuels is categorically excluded from the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if the forest management activity—

“(A) notwithstanding section 423 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2009 (division E of Public Law 111–8; 123 Stat. 748), does not exceed 10,000 acres, including not more than 3,000 acres of mechanical thinning;

“(B) is developed—

“(i) in coordination with impacted parties, specifically including representatives of local governments, such as county supervisors or county commissioners; and

“(ii) in consultation with other interested parties; and

“(C) is consistent with the Lake Tahoe Basin Management Unit land and resource management plan.

“(d) WITHDRAWAL OF FEDERAL LAND.—

“(1) IN GENERAL.—Subject to valid existing rights and paragraph (2), the Federal land located in the Lake Tahoe Basin Management Unit is withdrawn from—

“(A) all forms of entry, appropriation, or disposal under the public land laws;

“(B) location, entry, and patent under the mining laws; and

“(C) disposition under all laws relating to mineral and geothermal leasing.

“(2) EXCEPTIONS.—A conveyance of land shall be exempt from withdrawal under this subsection if carried out under—

“(A) this Act; or

“(B) Public Law 96–586 (94 Stat. 3381) (commonly known as the ‘Santini-Burton Act’).

“(e) ENVIRONMENTAL THRESHOLD CARRYING CAPACITY.—The Lake Tahoe Basin Management Unit shall support the attainment of the environmental threshold carrying capacities.

“(f) COOPERATIVE AUTHORITIES.—During the 4 fiscal years following the date of enactment of the Water Resources Development Act of 2016, the Secretary, in conjunction with land adjustment programs, may enter into contracts and cooperative agreements with States, units of local government, and other public and private entities to provide for fuel reduction, erosion control, reforestation, Stream Environment Zone restoration, and similar management activities on Federal land and non-Federal land within the programs.”

(d) AUTHORIZED PROGRAMS.—The Lake Tahoe Restoration Act (Public Law 106–506; 114 Stat. 2351) is amended by striking section 5 and inserting the following:

**“SEC. 5. AUTHORIZED PROGRAMS.**

“(a) IN GENERAL.—The Secretary, the Assistant Secretary, the Directors, and the Administrator, in coordination with the Planning

Agency and the States of California and Nevada, may carry out or provide financial assistance to any program that—

“(1) is described in subsection (d);

“(2) is included in the Priority List under subsection (b); and

“(3) furthers the purposes of the Environmental Improvement Program if the program has been subject to environmental review and approval, respectively, as required under Federal law, Article VII of the Compact, and State law, as applicable.

“(b) PRIORITY LIST.—

“(1) DEADLINE.—Not later than March 15 of the year after the date of enactment of the Water Resources Development Act of 2016, the Chair, in consultation with the Secretary, the Administrator, the Directors, the Planning Agency, the States of California and Nevada, the Federal Partnership, the Washoe Tribe, the Lake Tahoe Federal Advisory Committee, and the Tahoe Science Consortium (or a successor organization) shall submit to Congress a prioritized Environmental Improvement Program list for the Lake Tahoe Basin for the program categories described in subsection (d).

“(2) CRITERIA.—The ranking of the Priority List shall be based on the best available science and the following criteria:

“(A) The 4-year threshold carrying capacity evaluation.

“(B) The ability to measure progress or success of the program.

“(C) The potential to significantly contribute to the achievement and maintenance of the environmental threshold carrying capacities identified in Article II of the Compact.

“(D) The ability of a program to provide multiple benefits.

“(E) The ability of a program to leverage non-Federal contributions.

“(F) Stakeholder support for the program.

“(G) The justification of Federal interest.

“(H) Agency priority.

“(I) Agency capacity.

“(J) Cost-effectiveness.

“(K) Federal funding history.

“(3) REVISIONS.—The Priority List submitted under paragraph (1) shall be revised every 2 years.

“(4) FUNDING.—Of the amounts made available under section 10(a), \$80,000,000 shall be made available to the Secretary to carry out projects listed on the Priority List.

“(c) RESTRICTION.—The Administrator shall use not more than 3 percent of the funds provided under subsection (a) for administering the programs described in paragraphs (1) and (2) of subsection (d).

“(d) DESCRIPTION OF ACTIVITIES.—

“(1) FIRE RISK REDUCTION AND FOREST MANAGEMENT.—

“(A) IN GENERAL.—Of the amounts made available under section 10(a), \$150,000,000 shall be made available to the Secretary to carry out, including by making grants, the following programs:

“(i) Programs identified as part of the Lake Tahoe Basin Multi-Jurisdictional Fuel Reduction and Wildfire Prevention Strategy 10-Year Plan.

“(ii) Competitive grants for fuels work to be awarded by the Secretary to communities that have adopted national wildland fire codes to implement the applicable portion of the 10-year plan described in clause (i).

“(iii) Biomass programs, including feasibility assessments.

“(iv) Angora Fire Restoration under the jurisdiction of the Secretary.

“(v) Washoe Tribe programs on tribal lands within the Lake Tahoe Basin.

“(vi) Development of an updated Lake Tahoe Basin multijurisdictional fuel reduction and wildfire prevention strategy, consistent with section 4(c).

“(vii) Development of updated community wildfire protection plans by local fire districts.

“(viii) Municipal water infrastructure that significantly improves the firefighting capability of local government within the Lake Tahoe Basin.

“(ix) Stewardship end result contracting projects carried out under section 604 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6591c).

“(B) MINIMUM ALLOCATION.—Of the amounts made available to the Secretary to carry out subparagraph (A), at least \$100,000,000 shall be used by the Secretary for programs under subparagraph (A)(i).

“(C) PRIORITY.—Units of local government that have dedicated funding for inspections and enforcement of defensible space regulations shall be given priority for amounts provided under this paragraph.

“(D) COST-SHARING REQUIREMENTS.—

“(i) IN GENERAL.—As a condition on the receipt of funds, communities or local fire districts that receive funds under this paragraph shall provide a 25-percent match.

“(ii) FORM OF NON-FEDERAL SHARE.—

“(I) IN GENERAL.—The non-Federal share required under clause (i) may be in the form of cash contributions or in-kind contributions, including providing labor, equipment, supplies, space, and other operational needs.

“(II) CREDIT FOR CERTAIN DEDICATED FUNDING.—There shall be credited toward the non-Federal share required under clause (i) any dedicated funding of the communities or local fire districts for a fuels reduction management program, defensible space inspections, or dooryard chipping.

“(III) DOCUMENTATION.—Communities and local fire districts shall—

“(aa) maintain a record of in-kind contributions that describes—

“(AA) the monetary value of the in-kind contributions; and

“(BB) the manner in which the in-kind contributions assist in accomplishing program goals and objectives; and

“(bb) document in all requests for Federal funding, and include in the total program budget, evidence of the commitment to provide the non-Federal share through in-kind contributions.

“(2) INVASIVE SPECIES MANAGEMENT.—

“(A) IN GENERAL.—Of the amounts made available under section 10(a), \$45,000,000 shall be made available to the Director of the United States Fish and Wildlife Service for the Aquatic Invasive Species Program and the watercraft inspections described in subparagraph (B).

“(B) DESCRIPTION OF ACTIVITIES.—The Director of the United States Fish and Wildlife Service, in coordination with the Assistant Secretary, the Planning Agency, the California Department of Fish and Wildlife, and the Nevada Department of Wildlife, shall deploy strategies consistent with the Lake Tahoe Aquatic Invasive Species Management Plan to prevent the introduction or spread of aquatic invasive species in the Lake Tahoe region.

“(C) CRITERIA.—The strategies referred to in subparagraph (B) shall provide that—

“(i) combined inspection and decontamination stations be established and operated at not less than 2 locations in the Lake Tahoe region; and

“(ii) watercraft not be allowed to launch in waters of the Lake Tahoe region if the watercraft has not been inspected in accordance with the Lake Tahoe Aquatic Invasive Species Management Plan.

“(D) CERTIFICATION.—The Planning Agency may certify State and local agencies to perform the decontamination activities described in subparagraph (C)(i) at locations outside the Lake Tahoe Basin if standards at the sites meet or exceed standards for similar sites in the Lake Tahoe Basin established under this paragraph.

“(E) APPLICABILITY.—The strategies and criteria developed under this paragraph shall apply to all watercraft to be launched on water within the Lake Tahoe region.

“(F) FEES.—The Director of the United States Fish and Wildlife Service may collect and spend fees for decontamination only at a level sufficient to cover the costs of operation of inspection and decontamination stations under this paragraph.

“(G) CIVIL PENALTIES.—

“(i) IN GENERAL.—Any person that launches, attempts to launch, or facilitates launching of watercraft not in compliance with strategies deployed under this paragraph shall be liable for a civil penalty in an amount not to exceed \$1,000 per violation.

“(ii) OTHER AUTHORITIES.—Any penalties assessed under this subparagraph shall be separate from penalties assessed under any other authority.

“(H) LIMITATION.—The strategies and criteria under subparagraphs (B) and (C), respectively, may be modified if the Secretary of the Interior, in a nondelegable capacity and in consultation with the Planning Agency and State governments, issues a determination that alternative measures will be no less effective at preventing introduction



of aquatic invasive species into Lake Tahoe than the strategies and criteria developed under subparagraphs (B) and (C), respectively.

“(I) SUPPLEMENTAL AUTHORITY.—The authority under this paragraph is supplemental to all actions taken by non-Federal regulatory authorities.

“(J) SAVINGS CLAUSE.—Nothing in this title restricts, affects, or amends any other law or the authority of any department, instrumentality, or agency of the United States, or any State or political subdivision thereof, respecting the control of invasive species.

“(3) STORMWATER MANAGEMENT, EROSION CONTROL, AND TOTAL WATERSHED RESTORATION.—Of the amounts made available under section 10(a), \$113,000,000 shall be made available—

“(A) to the Secretary, the Secretary of the Interior, the Assistant Secretary, or the Administrator for the Federal share of stormwater management and related programs consistent with the adopted Total Maximum Daily Load and near-shore water quality goals;

“(B) for grants by the Secretary and the Administrator to carry out the programs described in subparagraph (A);

“(C) to the Secretary or the Assistant Secretary for the Federal share of the Upper Truckee River restoration programs and other watershed restoration programs identified in the Priority List established under section 5(b); and

“(D) for grants by the Administrator to carry out the programs described in subparagraph (C).

“(4) SPECIAL STATUS SPECIES MANAGEMENT.—Of the amounts made available under section 10(a), \$20,000,000 shall be made available to the Director of the United States Fish and Wildlife Service for the Lahontan Cutthroat Trout Recovery Program.”

(e) PROGRAM PERFORMANCE AND ACCOUNTABILITY.—The Lake Tahoe Restoration Act (Public Law 106–506; 114 Stat. 2351) is amended by striking section 6 and inserting the following:

**“SEC. 6. PROGRAM PERFORMANCE AND ACCOUNTABILITY.**

“(a) PROGRAM PERFORMANCE AND ACCOUNTABILITY.—

“(1) IN GENERAL.—Of the amounts made available under section 10(a), not less than \$5,000,000 shall be made available to the Secretary to carry out this section.

“(2) PLANNING AGENCY.—Of the amounts described in paragraph (1), not less than 50 percent shall be made available to the Planning Agency to carry out the program oversight and coordination activities established under subsection (d).

“(b) CONSULTATION.—In carrying out this Act, the Secretary, the Administrator, and the Directors shall, as appropriate and in a timely manner, consult with the heads of the Washoe Tribe, applicable Federal, State, regional, and local governmental agencies, and the Lake Tahoe Federal Advisory Committee.

“(c) CORPS OF ENGINEERS; INTERAGENCY AGREEMENTS.—

“(1) IN GENERAL.—The Assistant Secretary may enter into interagency agreements with non-Federal interests in the Lake

Tahoe Basin to use Lake Tahoe Partnership-Miscellaneous General Investigations funds to provide programmatic technical assistance for the Environmental Improvement Program.

“(2) LOCAL COOPERATION AGREEMENTS.—

“(A) IN GENERAL.—Before providing technical assistance under this section, the Assistant Secretary shall enter into a local cooperation agreement with a non-Federal interest to provide for the technical assistance.

“(B) COMPONENTS.—The agreement entered into under subparagraph (A) shall—

“(i) describe the nature of the technical assistance;

“(ii) describe any legal and institutional structures necessary to ensure the effective long-term viability of the end products by the non-Federal interest; and

“(iii) include cost-sharing provisions in accordance with subparagraph (C).

“(C) FEDERAL SHARE.—

“(i) IN GENERAL.—The Federal share of program costs under each local cooperation agreement under this paragraph shall be 65 percent.

“(ii) FORM.—The Federal share may be in the form of reimbursements of program costs.

“(iii) CREDIT.—The non-Federal interest may receive credit toward the non-Federal share for the reasonable costs of related technical activities completed by the non-Federal interest before entering into a local cooperation agreement with the Assistant Secretary under this paragraph.

“(d) EFFECTIVENESS EVALUATION AND MONITORING.—In carrying out this Act, the Secretary, the Administrator, and the Directors, in coordination with the Planning Agency and the States of California and Nevada, shall—

“(1) develop and implement a plan for integrated monitoring, assessment, and applied research to evaluate the effectiveness of the Environmental Improvement Program;

“(2) include funds in each program funded under this section for monitoring and assessment of results at the program level; and

“(3) use the integrated multiagency performance measures established under this section.

“(e) REPORTING REQUIREMENTS.—Not later than March 15 of each year, the Secretary, in cooperation with the Chair, the Administrator, the Directors, the Planning Agency, and the States of California and Nevada, consistent with subsection (a), shall submit to Congress a report that describes—

“(1) the status of all Federal, State, local, and private programs authorized under this Act, including to the maximum extent practicable, for programs that will receive Federal funds under this Act during the current or subsequent fiscal year—

“(A) the program scope;

“(B) the budget for the program; and

“(C) the justification for the program, consistent with the criteria established in section 5(b)(2);

“(2) Federal, State, local, and private expenditures in the preceding fiscal year to implement the Environmental Improvement Program;

“(3) accomplishments in the preceding fiscal year in implementing this Act in accordance with the performance measures and other monitoring and assessment activities; and

“(4) public education and outreach efforts undertaken to implement programs authorized under this Act.

“(f) ANNUAL BUDGET PLAN.—As part of the annual budget of the President, the President shall submit information regarding each Federal agency involved in the Environmental Improvement Program (including the Forest Service, the Environmental Protection Agency, the United States Fish and Wildlife Service, the United States Geological Survey, and the Corps of Engineers), including—

“(1) an interagency crosscut budget that displays the proposed budget for use by each Federal agency in carrying out restoration activities relating to the Environmental Improvement Program for the following fiscal year;

“(2) a detailed accounting of all amounts received and obligated by Federal agencies to achieve the goals of the Environmental Improvement Program during the preceding fiscal year; and

“(3) a description of the Federal role in the Environmental Improvement Program, including the specific role of each agency involved in the restoration of the Lake Tahoe Basin.”.

(f) CONFORMING AMENDMENTS; UPDATES TO RELATED LAWS.—

(1) LAKE TAHOE RESTORATION ACT.—The Lake Tahoe Restoration Act (Public Law 106–506; 114 Stat. 2351) is amended—

(A) by striking sections 8 and 9;

(B) by redesignating sections 10, 11, and 12 as sections 8, 9, and 10, respectively; and

(C) in section 9 (as redesignated by subparagraph (B)) by inserting “, Director, or Administrator” after “Secretary”.

(2) TAHOE REGIONAL PLANNING COMPACT.—Subsection (c) of Article V of the Tahoe Regional Planning Compact (Public Law 96–551; 94 Stat. 3240) is amended in the third sentence by inserting “and, in so doing, shall ensure that the regional plan reflects changing economic conditions and the economic effect of regulation on commerce” after “maintain the regional plan”.

(3) TREATMENT UNDER TITLE 49, UNITED STATES CODE.—Section 5303(r)(2)(C) of title 49, United States Code, is amended—

(A) by inserting “and 25 square miles of land area” after “145,000”; and

(B) by inserting “and 12 square miles of land area” after “65,000”.

(g) AUTHORIZATION OF APPROPRIATIONS.—The Lake Tahoe Restoration Act (Public Law 106–506; 114 Stat. 2351) is amended by striking section 10 (as redesignated by subsection (f)(1)(B)) and inserting the following:

**“SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

“(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this Act \$415,000,000 for a period of 7 fiscal years beginning the first fiscal year after the date of enactment of the Water Resources Development Act of 2016.

“(b) EFFECT ON OTHER FUNDS.—Amounts authorized under this section and any amendments made by this Act—

“(1) shall be in addition to any other amounts made available to the Secretary, the Administrator, or the Directors for expenditure in the Lake Tahoe Basin; and

“(2) shall not reduce allocations for other Regions of the Forest Service, the Environmental Protection Agency, or the United States Fish and Wildlife Service.

“(c) COST-SHARING REQUIREMENT.—Except as provided in subsection (d) and section 5(d)(1)(D), funds for activities carried out under section 5 shall be available for obligation on a 1-to-1 basis with funding of restoration activities in the Lake Tahoe Basin by the States of California and Nevada.

“(d) RELOCATION COSTS.—Notwithstanding subsection (c), the Secretary shall provide to local utility districts two-thirds of the costs of relocating facilities in connection with—

“(1) environmental restoration programs under sections 5 and 6; and

“(2) erosion control programs under section 2 of Public Law 96-586 (94 Stat. 3381).

“(e) SIGNAGE.—To the maximum extent practicable, a program provided assistance under this Act shall include appropriate signage at the program site that—

“(1) provides information to the public on—

“(A) the amount of Federal funds being provided to the program; and

“(B) this Act; and

“(2) displays the visual identity mark of the Environmental Improvement Program.”.

(1) LAND TRANSFERS TO IMPROVE MANAGEMENT EFFICIENCIES OF FEDERAL AND STATE LAND.—Section 3(b) of Public Law 96-586 (94 Stat. 3384) (commonly known as the “Santini-Burton Act”) is amended—

(A) by striking “(b) Lands” and inserting the following:

“(b) ADMINISTRATION OF ACQUIRED LAND.—

“(1) IN GENERAL.—Land”; and

(B) by adding at the end the following:

“(2) CALIFORNIA CONVEYANCES.—

“(A) IN GENERAL.—If the State of California (acting through the California Tahoe Conservancy and the California Department of Parks and Recreation) offers to donate to the United States the non-Federal land described in subparagraph (B)(i), the Secretary—

“(i) may accept the offer; and

“(ii) convey to the State of California, subject to valid existing rights and for no consideration, all right, title, and interest of the United States in and to the Federal land.

“(B) DESCRIPTION OF LAND.—

“(i) NON-FEDERAL LAND.—The non-Federal land referred to in subparagraph (A) includes—

“(I) the approximately 1,936 acres of land administered by the California Tahoe Conservancy and identified on the Maps as ‘Tahoe Conservancy to the USFS’; and

“(II) the approximately 183 acres of land administered by California State Parks and identified on the Maps as ‘Total USFS to California’.

“(ii) FEDERAL LAND.—The Federal land referred to in subparagraph (A) includes the approximately 1,995 acres of Forest Service land identified on the Maps as ‘U.S. Forest Service to Conservancy and State Parks’.

“(C) CONDITIONS.—Any land conveyed under this paragraph shall—

“(i) be for the purpose of consolidating Federal and State ownerships and improving management efficiencies;

“(ii) not result in any significant changes in the uses of the land; and

“(iii) be subject to the condition that the applicable deed include such terms, restrictions, covenants, conditions, and reservations as the Secretary determines necessary—

“(I) to ensure compliance with this Act; and

“(II) to ensure that the transfer of development rights associated with the conveyed parcels shall not be recognized or available for transfer under chapter 51 of the Code of Ordinances for the Tahoe Regional Planning Agency.

“(D) CONTINUATION OF SPECIAL USE PERMITS.—The land conveyance under this paragraph shall be subject to the condition that the State of California accept all special use permits applicable, as of the date of enactment of the Water Resources Development Act of 2016, to the land described in subparagraph (B)(ii) for the duration of the special use permits, and subject to the terms and conditions of the special use permits.

“(3) NEVADA CONVEYANCES.—

“(A) IN GENERAL.—In accordance with this section and on request by the Governor of Nevada, the Secretary may transfer the land or interests in land described in subparagraph (B) to the State of Nevada without consideration, subject to appropriate deed restrictions to protect the environmental quality and public recreational use of the land transferred.

“(B) DESCRIPTION OF LAND.—The land referred to in subparagraph (A) includes—

“(i) the approximately 38.68 acres of Forest Service land identified on the map entitled ‘State of Nevada Conveyances’ as ‘Van Sickle Unit USFS Inholding’; and

“(ii) the approximately 92.28 acres of Forest Service land identified on the map entitled ‘State of Nevada Conveyances’ as ‘Lake Tahoe Nevada State Park USFS Inholding’.

“(C) CONDITIONS.—Any land conveyed under this paragraph shall—

“(i) be for the purpose of consolidating Federal and State ownerships and improving management efficiencies;

“(ii) not result in any significant changes in the uses of the land; and

“(iii) be subject to the condition that the applicable deed include such terms, restrictions, covenants, conditions, and reservations as the Secretary determines necessary—

“(I) to ensure compliance with this Act; and

“(II) to ensure that the development rights associated with the conveyed parcels shall not be recognized or available for transfer under section 90.2 of the Code of Ordinances for the Tahoe Regional Planning Agency.

“(D) CONTINUATION OF SPECIAL USE PERMITS.—The land conveyance under this paragraph shall be subject to the condition that the State of Nevada accept all special use permits applicable, as of the date of enactment of the Water Resources Development Act of 2016, to the land described in subparagraph (B)(ii) for the duration of the special use permits, and subject to the terms and conditions of the special use permits.

“(4) AUTHORIZATION FOR CONVEYANCE OF FOREST SERVICE URBAN LOTS.—

“(A) CONVEYANCE AUTHORITY.—Except in the case of land described in paragraphs (2) and (3), the Secretary of Agriculture may convey any urban lot within the Lake Tahoe Basin under the administrative jurisdiction of the Forest Service.

“(B) CONSIDERATION.—A conveyance under subparagraph (A) shall require consideration in an amount equal to the fair market value of the conveyed lot.

“(C) AVAILABILITY AND USE.—The proceeds from a conveyance under subparagraph (A) shall be retained by the Secretary of Agriculture and used for—

“(i) purchasing inholdings throughout the Lake Tahoe Basin; or

“(ii) providing additional funds to carry out the Lake Tahoe Restoration Act (Public Law 106–506; 114 Stat. 2351) in excess of amounts made available under section 10 of that Act.

“(D) OBLIGATION LIMIT.—The obligation and expenditure of proceeds retained under this paragraph shall be subject to such fiscal year limitation as may be specified in an Act making appropriations for the Forest Service for a fiscal year.

“(5) REVERSION.—If a parcel of land transferred under paragraph (2) or (3) is used in a manner that is inconsistent with the use described for the parcel of land in paragraph (2) or (3), respectively, the parcel of land, shall, at the discretion of the Secretary, revert to the United States.

“(6) FUNDING.—

“(A) IN GENERAL.—Of the amounts made available under section 10(a) of the Lake Tahoe Restoration Act (Public Law 106–506; 114 Stat. 2351), \$2,000,000 shall be made available to the Secretary to carry out the activities under paragraphs (2), (3), and (4).

“(B) OTHER FUNDS.—Of the amounts available to the Secretary under paragraph (1), not less than 50 percent shall be provided to the California Tahoe Conservancy to

facilitate the conveyance of land described in paragraphs (2) and (3).”.

**SEC. 3604. TUOLUMNE BAND OF ME-WUK INDIANS.**

(a) **FEDERAL LAND.**—Subject to valid existing rights, all right, title, and interest (including improvements and appurtenances) of the United States in and to the Federal land described in subsection (b) shall be held in trust by the United States for the benefit of the Tuolumne Band of Me-Wuk Indians for nongaming purposes.

(b) **LAND DESCRIPTION.**—The land taken into trust under subsection (a) is the approximately 80 acres of Federal land under the administrative jurisdiction of the United States Forest Service, located in Tuolumne County, California, and described as follows:

(1) Southwest 1/4 of Southwest 1/4 of Section 2, Township 1 North, Range 16 East.

(2) Northeast 1/4 of Northwest 1/4 of Section 11, Township 1 North, Range 16 East of the Mount Diablo Meridian.

(c) **GAMING.**—Class II and class III gaming (as those terms are defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)) shall not be permitted at any time on the land taken into trust under subsection (a).

**SEC. 3605. SAN LUIS REY SETTLEMENT AGREEMENT IMPLEMENTATION.**

(a) **SAN LUIS REY SETTLEMENT AGREEMENT IMPLEMENTATION.**—The San Luis Rey Indian Water Rights Settlement Act (Public Law 100–675) is amended by inserting after section 111 the following:

**“SEC. 112. IMPLEMENTATION OF SETTLEMENT.**

“(a) **FINDINGS.**—Congress finds and recognizes as follows:

“(1) The City of Escondido, California, the Vista Irrigation District, the San Luis Rey River Indian Water Authority, and the Bands have approved an agreement, dated December 5, 2014, resolving their disputes over the use of certain land and water rights in or near the San Luis Rey River watershed, the terms of which are consistent with this Act.

“(2) The Bands, the San Luis Rey River Indian Water Authority, the City of Escondido, California, the Vista Irrigation District, and the United States have approved a Settlement Agreement dated January 30, 2015 (hereafter in this section referred to as the ‘Settlement Agreement’) that conforms to the requirements of this Act.

“(b) **APPROVAL AND RATIFICATION.**—All provisions of the Settlement Agreement, including the waivers and releases of the liability of the United States, the provisions regarding allottees, and the provision entitled ‘Effect of Settlement Agreement and Act,’ are hereby approved and ratified.

“(c) **AUTHORIZATIONS.**—The Secretary and the Attorney General are authorized to execute, on behalf of the United States, the Settlement Agreement and any amendments approved by the parties as necessary to make the Settlement Agreement consistent with this Act. Such execution shall not constitute a major Federal action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary is further authorized and directed to take all steps that the Secretary may deem necessary or appropriate to implement the Settlement Agreement and this Act.

“(d) CONTINUED FEDERALLY RESERVED AND OTHER WATER RIGHTS.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, including any provisions in this Act, the Bands had, have, and continue to possess federally reserved rights and other water rights held in trust by the United States.

“(2) FUTURE PROCEEDINGS.—In any proceeding involving the assertion, enforcement, or defense of the rights described in this subsection, the United States, in its capacity as trustee for any Band, shall not be a required party and any decision by the United States regarding participation in any such proceeding shall not be subject to judicial review or give rise to any claim for relief against the United States.

“(e) ALLOTTEES.—Congress finds and confirms that the benefits to allottees in the Settlement Agreement, including the remedies and provisions requiring that any rights of allottees shall be satisfied from supplemental water and other water available to the Bands or the Indian Water Authority, are equitable and fully satisfy the water rights of the allottees.

“(f) NO PRECEDENT.—Nothing in this Act shall be construed or interpreted as a precedent for the litigation or settlement of Indian reserved water rights.”.

(b) DISBURSEMENT OF FUNDS.—The second sentence of section 105(b)(1) of the San Luis Rey Indian Water Rights Settlement Act (Public Law 100–675) is amended by striking the period at the end, and inserting the following: “, provided that—

“(i) no more than \$3,700,000 per year (in principal, interest or both) may be so allocated; and

“(ii) none of the funds made available by this section shall be available unless the Director of the Office of Management and Budget first certifies in writing to the Committee on Natural Resources of the House of Representatives and the Committee on Indian Affairs of the Senate that the federal budget will record budgetary outlays from the San Luis Rey Tribal Development Fund of only the monies, not to exceed \$3,700,000 annually, that the Secretary of the Treasury, pursuant to this section, allocates and makes available to the Indian Water Authority from the trust fund.”.

**SEC. 3606. TULE RIVER INDIAN TRIBE.**

(a) IN GENERAL.—Subject to subsection (b), valid, existing rights, and management agreements related to easements and rights-of-way, all right, title, and interest (including improvements and appurtenances) of the United States in and to the approximately 34 acres of Federal lands generally depicted on the map titled “Proposed Lands to be Held in Trust for the Tule River Tribe” and dated May 14, 2015, are hereby held in trust by the United States for the benefit of the Tule River Indian Tribe.

(b) EASEMENTS AND RIGHTS-OF-WAY.—For the purposes of subsection (a), valid, existing rights include any easement or right-of-way for which an application is pending with the Bureau of Land Management on the date of the enactment of this Act. If such application is denied upon final action, the valid, existing right related to the application shall cease to exist.



(c) **AVAILABILITY OF MAP.**—The map referred to in subsection (a) shall be on file and available for public inspection at the office of the California State Director, Bureau of Land Management.

(d) **CONVERSION OF VALID, EXISTING RIGHTS.**—

(1) **CONTINUITY OF USE.**—Any person claiming in good faith to have valid, existing rights to lands taken into trust by this section may continue to exercise such rights to the same extent that the rights were exercised before the date of the enactment of this Act until the Secretary makes a determination on an application submitted under paragraph (2)(B) or the application is deemed to be granted under paragraph (3).

(2) **NOTICE AND APPLICATION.**—Consistent with sections 2800 through 2880 of title 43, Code of Federal Regulations, as soon as practicable after the date of the enactment of this Act, the Secretary of the Interior shall notify any person that claims to have valid, existing rights, such as a management agreement, easement, or other right-of-way, to lands taken into trust under subsection (a) that—

(A) such lands have been taken into trust; and

(B) the person claiming the valid, existing rights has 60 days to submit an application to the Secretary requesting that the valid, existing rights be converted to a long-term easement or other right-of-way.

(3) **DETERMINATION.**—The Secretary of the Interior shall grant or deny an application submitted under paragraph (2)(B) not later than 180 days after the application is submitted. Such a determination shall be considered a final action. If the Secretary does not make a determination within 180 days after the application is submitted, the application shall be deemed to be granted.

(e) **RESTRICTION ON GAMING.**—Lands taken into trust pursuant to subsection (a) shall not be considered to have been taken into trust for, and shall not be eligible for, class II gaming or class III gaming (as those terms are defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)).

#### **SEC. 3607. MORONGO BAND OF MISSION INDIANS.**

(a) **DEFINITIONS.**—For the purposes of this section, the following definitions apply:

(1) **BANNING.**—The term “Banning” means the City of Banning, which is located in Riverside County, California adjacent to the Morongo Indian Reservation.

(2) **FIELDS.**—The term “Fields” means Lloyd L. Fields, the owner of record of Parcel A.

(3) **MAP.**—The term “map” means the map entitled ‘Morongo Indian Reservation, County of Riverside, State of California Land Exchange Map’, and dated May 22, 2014, which is on file in the Bureau of Land Management State Office in Sacramento, California.

(4) **PARCEL A.**—The term “Parcel A” means the approximately 41.15 acres designated on the map as “Fields lands”.

(5) **PARCEL B.**—The term “Parcel B” means the approximately 41.15 acres designated on the map as “Morongo lands”.

(6) **PARCEL C.**—The term “Parcel C” means the approximately 1.21 acres designated on the map as “Banning land”.

(7) **PARCEL D.**—The term “Parcel D” means the approximately 1.76 acres designated on the map as “Easement to Banning”.

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

(9) **TRIBE.**—The term “Tribe” means the Morongo Band of Mission Indians, a federally recognized Indian tribe.

(b) **TRANSFER OF LANDS; TRUST LANDS, EASEMENT.**—

(1) **TRANSFER OF PARCEL A AND PARCEL B AND EASEMENT OVER PARCEL D.**—Subject to any valid existing rights of any third parties and to legal review and approval of the form and content of any and all instruments of conveyance and policies of title insurance, upon receipt by the Secretary of confirmation that Fields has duly executed and deposited with a mutually acceptable and jointly instructed escrow holder in California a deed conveying clear and unencumbered title to Parcel A to the United States in trust for the exclusive use and benefit of the Tribe, and upon receipt by Fields of confirmation that the Secretary has duly executed and deposited into escrow with the same mutually acceptable and jointly instructed escrow holder a patent conveying clear and unencumbered title in fee simple to Parcel B to Fields and has duly executed and deposited into escrow with the same mutually acceptable and jointly instructed escrow holder an easement to the City for a public right-of-way over Parcel D, the Secretary shall instruct the escrow holder to simultaneously cause—

(A) the patent to Parcel B to be recorded and issued to Fields;

(B) the easement over Parcel D to be recorded and issued to the City; and

(C) the deed to Parcel A to be delivered to the Secretary, who shall immediately cause said deed to be recorded and held in trust for the Tribe.

(2) **TRANSFER OF PARCEL C.**—After the simultaneous transfer of parcels A, B, and D under paragraph (1), upon receipt by the Secretary of confirmation that the City has vacated its interest in Parcel C pursuant to all applicable State and local laws, the Secretary shall immediately cause Parcel C to be held in trust for the Tribe subject to—

(A) any valid existing rights of any third parties; and

(B) legal review and approval of the form and content of any and all instruments of conveyance.

**SEC. 3608. CHOCTAW NATION OF OKLAHOMA AND THE CHICKASAW NATION WATER SETTLEMENT.**

(a) **PURPOSES.**—The purposes of this section are—

(1) to permanently resolve and settle those claims to Settlement Area Waters of the Choctaw Nation of Oklahoma and the Chickasaw Nation as set forth in the Settlement Agreement and this section, including all claims or defenses in and to Chickasaw Nation, Choctaw Nation v. Fallin et al., CIV 11-927 (W.D. Ok.), OWRB v. United States, et al. CIV 12-275 (W.D. Ok.), or any future stream adjudication;

(2) to approve, ratify, and confirm the Settlement Agreement;

(3) to authorize and direct the Secretary of the Interior to execute the Settlement Agreement and to perform all obligations of the Secretary of the Interior under the Settlement Agreement and this section;

(4) to approve, ratify, and confirm the amended storage contract among the State, the City and the Trust;

(5) to authorize and direct the Secretary to approve the amended storage contract for the Corps of Engineers to perform all obligations under the 1974 storage contract, the amended storage contract, and this section; and

(6) to authorize all actions necessary for the United States to meet its obligations under the Settlement Agreement, the amended storage contract, and this section.

(b) DEFINITIONS.—In this section:

(1) 1974 STORAGE CONTRACT.—The term “1974 storage contract” means the contract approved by the Secretary on April 9, 1974, between the Secretary and the Water Conservation Storage Commission of the State of Oklahoma pursuant to section 301 of the Water Supply Act of 1958, and other applicable Federal law.

(2) 2010 AGREEMENT.—The term “2010 agreement” means the agreement entered into among the OWRB and the Trust, dated June 15, 2010, relating to the assignment by the State of the 1974 storage contract and transfer of rights, title, interests, and obligations under that contract to the Trust, including the interests of the State in the conservation storage capacity and associated repayment obligations to the United States.

(3) ADMINISTRATIVE SET-ASIDE SUBCONTRACTS.—The term “administrative set-aside subcontracts” means the subcontracts the City shall issue for the use of Conservation Storage Capacity in Sardis Lake as provided by section 4 of the amended storage contract.

(4) ALLOTMENT.—The term “allotment” means the land within the Settlement Area held by an allottee subject to a statutory restriction on alienation or held by the United States in trust for the benefit of an allottee.

(5) ALLOTTEE.—The term “allottee” means an enrolled member of the Choctaw Nation or citizen of the Chickasaw Nation who, or whose estate, holds an interest in an allotment.

(6) AMENDED PERMIT APPLICATION.—The term “amended permit application” means the permit application of the City to the OWRB, No. 2007–17, as amended as provided by the Settlement Agreement.

(7) AMENDED STORAGE CONTRACT TRANSFER AGREEMENT; AMENDED STORAGE CONTRACT.—The terms “amended storage contract transfer agreement” and “amended storage contract” mean the 2010 Agreement between the City, the Trust, and the OWRB, as amended, as provided by the Settlement Agreement and this section.

(8) ATOKA AND SARDIS CONSERVATION PROJECTS FUND.—The term “Atoka and Sardis Conservation Projects Fund” means the Atoka and Sardis Conservation Projects Fund established, funded, and managed in accordance with the Settlement Agreement.

(9) CITY.—The term “City” means the City of Oklahoma City, or the City and the Trust acting jointly, as applicable.

(10) CITY PERMIT.—The term “City permit” means any permit issued to the City by the OWRB pursuant to the amended permit application and consistent with the Settlement Agreement.

(11) CONSERVATION STORAGE CAPACITY.—The term “conservation storage capacity” means the total storage space as stated in the 1974 storage contract in Sardis Lake between elevations 599.0 feet above mean sea level and 542.0 feet above mean sea level, which is estimated to contain 297,200 acre-feet of water after adjustment for sediment deposits, and which may be used for municipal and industrial water supply, fish and wildlife, and recreation.

(12) ENFORCEABILITY DATE.—The term “enforceability date” means the date on which the Secretary of the Interior publishes in the Federal Register a notice certifying that the conditions of subsection (i) have been satisfied.

(13) FUTURE USE STORAGE.—The term “future use storage” means that portion of the conservation storage capacity that was designated by the 1974 Contract to be utilized for future water use storage and was estimated to contain 155,500 acre feet of water after adjustment for sediment deposits, or 52.322 percent of the conservation storage capacity.

(14) NATIONS.—The term “Nations” means, collectively, the Choctaw Nation of Oklahoma (“Choctaw Nation”) and the Chickasaw Nation.

(15) OWRB.—The term “OWRB” means the Oklahoma Water Resources Board.

(16) SARDIS LAKE.—The term “Sardis Lake” means the reservoir, formerly known as Clayton Lake, whose dam is located in Section 19, Township 2 North, Range 19 East of the Indian Meridian, Pushmataha County, Oklahoma, the construction, operation, and maintenance of which was authorized by section 203 of the Flood Control Act of 1962 (Public Law 87-874; 76 Stat. 1187).

(17) SETTLEMENT AGREEMENT.—The term “Settlement Agreement” means the settlement agreement as approved by the Nations, the State, the City, and the Trust effective August 22, 2016, as revised to conform with this section, as applicable.

(18) SETTLEMENT AREA.—The term “settlement area” means—

(A) the area lying between—

(i) the South Canadian River and Arkansas River to the north;

(ii) the Oklahoma–Texas State line to the south;

(iii) the Oklahoma–Arkansas State line to the east;

and

(iv) the 98th Meridian to the west; and

(B) the area depicted in Exhibit 1 to the Settlement Agreement and generally including the following counties, or portions of, in the State:

(i) Atoka.

(ii) Bryan.

(iii) Carter.

(iv) Choctaw.

(v) Coal.

(vi) Garvin.

(vii) Grady.

- (viii) McClain.
- (ix) Murray.
- (x) Haskell.
- (xi) Hughes.
- (xii) Jefferson.
- (xiii) Johnston.
- (xiv) Latimer.
- (xv) LeFlore.
- (xvi) Love.
- (xvii) Marshall.
- (xviii) McCurtain.
- (xix) Pittsburgh.
- (xx) Pontotoc.
- (xxi) Pushmataha.
- (xxii) Stephens.

(19) SETTLEMENT AREA WATERS.—The term “settlement area waters” means the waters located—

(A) within the settlement area; and

(B) within a basin depicted in Exhibit 10 to the Settlement Agreement, including any of the following basins as denominated in the 2012 Update of the Oklahoma Comprehensive Water Plan:

- (i) Beaver Creek (24, 25, and 26).
- (ii) Blue (11 and 12).
- (iii) Clear Boggy (9).
- (iv) Kiamichi (5 and 6).
- (v) Lower Arkansas (46 and 47).
- (vi) Lower Canadian (48, 56, 57, and 58).
- (vii) Lower Little (2).
- (viii) Lower Washita (14).
- (ix) Mountain Fork (4).
- (x) Middle Washita (15 and 16).
- (xi) Mud Creek (23).
- (xii) Muddy Boggy (7 and 8).
- (xiii) Poteau (44 and 45).
- (xiv) Red River Mainstem (1, 10, 13, and 21).
- (xv) Upper Little (3).
- (xvi) Walnut Bayou (22).

(20) STATE.—The term “State” means the State of Oklahoma.

(21) TRUST.—

(A) IN GENERAL.—The term “Trust” means the Oklahoma City Water Utilities Trust, formerly known as the Oklahoma City Municipal Improvement Authority, a public trust established pursuant to State law with the City as the beneficiary.

(B) REFERENCES.—A reference in this section to “Trust” refers to the Oklahoma City Water Utilities Trust, acting severally.

(22) UNITED STATES.—The term “United States” means the United States of America acting in its capacity as trustee for the Nations, their respective members, citizens, and allottees, or as specifically stated or limited in any given reference herein, in which case it means the United States of America acting in the capacity as set forth in said reference.

(c) APPROVAL OF THE SETTLEMENT AGREEMENT.—

(1) RATIFICATION.—

(A) IN GENERAL.—Except as modified by this section, and to the extent the Settlement Agreement does not conflict with this section, the Settlement Agreement is authorized, ratified, and confirmed.

(B) AMENDMENTS.—If an amendment is executed to make the Settlement Agreement consistent with this section, the amendment is also authorized, ratified and confirmed to the extent the amendment is consistent with this section.

(2) EXECUTION OF SETTLEMENT AGREEMENT.—

(A) IN GENERAL.—To the extent the Settlement Agreement does not conflict with this section, the Secretary of the Interior shall promptly execute the Settlement Agreement, including all exhibits to or parts of the Settlement Agreement requiring the signature of the Secretary of the Interior and any amendments necessary to make the Settlement Agreement consistent with this section.

(B) NOT A MAJOR FEDERAL ACTION.—Execution of the Settlement Agreement by the Secretary of the Interior under this subsection shall not constitute a major Federal action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) APPROVAL OF THE AMENDED STORAGE CONTRACT AND 1974 STORAGE CONTRACT.—

(1) RATIFICATION.—

(A) IN GENERAL.—Except to the extent any provision of the amended storage contract conflicts with any provision of this section, the amended storage contract is authorized, ratified, and confirmed.

(B) 1974 STORAGE CONTRACT.—To the extent the amended storage contract, as authorized, ratified, and confirmed, modifies or amends the 1974 storage contract, the modification or amendment to the 1974 storage contract is authorized, ratified, and confirmed.

(C) AMENDMENTS.—To the extent an amendment is executed to make the amended storage contract consistent with this section, the amendment is authorized, ratified, and confirmed.

(2) APPROVAL BY THE SECRETARY.—After the State and the City execute the amended storage contract, the Secretary shall approve the amended storage contract.

(3) MODIFICATION OF SEPTEMBER 11, 2009, ORDER IN UNITED STATES V. OKLAHOMA WATER RESOURCES BOARD, CIV 98–00521 (N.D. OK).—The Secretary, through counsel, shall cooperate and work with the State to file any motion and proposed order to modify or amend the order of the United States District Court for the Northern District of Oklahoma dated September 11, 2009, necessary to conform the order to the amended storage contract transfer agreement, the Settlement Agreement, and this section.

(4) CONSERVATION STORAGE CAPACITY.—The allocation of the use of the conservation storage capacity in Sardis Lake for administrative set-aside subcontracts, City water supply, and fish and wildlife and recreation as provided by the amended storage contract is authorized, ratified and approved.

(5) ACTIVATION; WAIVER.—

(A) FINDINGS.—Congress finds that—

(i) the earliest possible activation of any increment of future use storage in Sardis Lake will not occur until after 2050; and

(ii) the obligation to make annual payments for the Sardis future use storage operation, maintenance and replacement costs, capital costs, or interest attributable to Sardis future use storage only arises if, and only to the extent, that an increment of Sardis future use storage is activated by withdrawal or release of water from the future use storage that is authorized by the user for a consumptive use of water.

(B) WAIVER OF OBLIGATIONS FOR STORAGE THAT IS NOT ACTIVATED.—Notwithstanding section 301 of the Water Supply Act of 1958 (43 U.S.C. 390b), section 203 of the Flood Control Act of 1962 (Public Law 87-874; 76 Stat. 1187), the 1974 storage contract, or any other provision of law, effective as of January 1, 2050—

(i) the entirety of any repayment obligations (including interest), relating to that portion of conservation storage capacity allocated by the 1974 storage contract to future use storage in Sardis Lake is waived and shall be considered nonreimbursable; and

(ii) any obligation of the State and, on execution and approval of the amended storage contract, of the City and the Trust, under the 1974 storage contract regarding capital costs and any operation, maintenance, and replacement costs and interest otherwise attributable to future use storage in Sardis Lake is waived and shall be nonreimbursable, if by January 1, 2050, the right to future use storage is not activated by the withdrawal or release of water from future use storage for an authorized consumptive use of water.

(6) CONSISTENT WITH AUTHORIZED PURPOSES; NO MAJOR OPERATIONAL CHANGE.—

(A) CONSISTENT WITH AUTHORIZED PURPOSE.—The amended storage contract, the approval of the Secretary of the amended storage contract, and the waiver of future use storage under paragraph (5)—

(i) are deemed consistent with the authorized purposes for Sardis Lake as described in section 203 of the Flood Control Act of 1962 (Public Law 87-874; 76 Stat. 1187) and do not affect the authorized purposes for which the project was authorized, surveyed, planned, and constructed; and

(ii) shall not constitute a reallocation of storage.

(B) NO MAJOR OPERATIONAL CHANGE.—The amended storage contract, the approval of the Secretary of the amended storage contract, and the waiver of future use storage under paragraph (5) shall not constitute a major operational change under section 301(e) of the Water Supply Act of 1958 (43 U.S.C. 390b(e)).

(7) NO FURTHER AUTHORIZATION REQUIRED.—This section shall be considered sufficient and complete authorization, without further study or analysis, for—

(A) the Secretary to approve the amended storage contract; and

(B) after approval under subparagraph (A), the Corps of Engineers to manage storage in Sardis Lake pursuant to and in accordance with the 1974 storage contract, the amended storage contract, and the Settlement Agreement.

(e) SETTLEMENT AREA WATERS.—

(1) FINDINGS.—Congress finds that—

(A) pursuant to the Atoka Agreement as ratified by section 29 of the Act of June 28, 1898 (30 Stat. 505, chapter 517) (as modified by the Act of July 1, 1902 (32 Stat. 641, chapter 1362)), the Nations issued patents to their respective tribal members and citizens and thereby conveyed to individual Choctaws and Chickasaws, all right, title, and interest in and to land that was possessed by the Nations, other than certain mineral rights; and

(B) when title passed from the Nations to their respective tribal members and citizens, the Nations did not convey and those individuals did not receive any right of regulatory or sovereign authority, including with respect to water.

(2) PERMITTING, ALLOCATION, AND ADMINISTRATION OF SETTLEMENT AREA WATERS PURSUANT TO THE SETTLEMENT AGREEMENT.—Beginning on the enforceability date, settlement area waters shall be permitted, allocated, and administered by the OWRB in accordance with the Settlement Agreement and this section.

(3) CHOCTAW NATION AND CHICKASAW NATION.—Beginning on the enforceability date, the Nations shall have the right to use and to develop the right to use settlement area waters only in accordance with the Settlement Agreement and this section.

(4) WAIVER AND DELEGATION BY NATIONS.—In addition to the waivers under subsection (h), the Nations, on their own behalf, shall permanently delegate to the State any regulatory authority each Nation may possess over water rights on allotments, which the State shall exercise in accordance with the Settlement Agreement and this subsection.

(5) RIGHT TO USE WATER.—

(A) IN GENERAL.—An allottee may use water on an allotment in accordance with the Settlement Agreement and this subsection.

(B) SURFACE WATER USE.—

(i) IN GENERAL.—An allottee may divert and use, on the allotment of the allottee, 6 acre-feet per year of surface water per 160 acres, to be used solely for domestic uses on an allotment that constitutes riparian land under applicable State law as of the date of enactment of this Act.

(ii) EFFECT OF STATE LAW.—The use of surface water described in clause (i) shall be subject to all rights and protections of State law, as of the date of enactment of this Act, including all protections against loss for nonuse.

(iii) NO PERMIT REQUIRED.—An allottee may divert water under this subsection without a permit or any other authorization from the OWRB.

(C) GROUNDWATER USE.—



(i) IN GENERAL.—An allottee may drill wells on the allotment of the allottee to take and use for domestic uses the greater of—

(I) 5 acre-feet per year; or

(II) any greater quantity allowed under State law.

(ii) EFFECT OF STATE LAW.—The groundwater use described in clause (i) shall be subject to all rights and protections of State law, as of the date of enactment of this Act, including all protections against loss for nonuse.

(iii) NO PERMIT REQUIRED.—An allottee may drill wells and use water under this subsection without a permit or any other authorization from the OWRB.

(D) FUTURE CHANGES IN STATE LAW.—

(i) IN GENERAL.—If State law changes to limit use of water to a quantity that is less than the applicable quantity specified in subparagraph (B) or (C), as applicable, an allottee shall retain the right to use water in accord with those subparagraphs, subject to paragraphs (6)(B)(iv) and (7).

(ii) OPPORTUNITY TO BE HEARD.—Prior to taking any action to limit the use of water by an individual, the OWRB shall provide to the individual an opportunity to demonstrate that the individual is—

(I) an allottee; and

(II) using water on the allotment pursuant to and in accordance with the Settlement Agreement and this section.

(6) ALLOTTEE OPTIONS FOR ADDITIONAL WATER.—

(A) IN GENERAL.—To use a quantity of water in excess of the quantities provided under paragraph (5), an allottee shall—

(i) file an action under subparagraph (B); or

(ii) apply to the OWRB for a permit pursuant to, and in accordance with, State law.

(B) DETERMINATION IN FEDERAL DISTRICT COURT.—

(i) IN GENERAL.—In lieu of applying to the OWRB for a permit to use more water than is allowed under paragraph (5), an allottee may file an action in the United States District Court for the Western District of Oklahoma for determination of the right to water of the allottee. At least 90 days prior to filing such an action, the allottee shall provide written notice of the suit to the United States and the OWRB. For the United States, notice shall be provided to the Solicitor's Office, Department of the Interior, Washington D.C., and to the Office of the Regional Director of the Muskogee Region, Bureau of Indian Affairs, Department of the Interior.

(ii) JURISDICTION.—For purposes of this subsection—

(I) the United States District Court for the Western District of Oklahoma shall have jurisdiction; and

(II) as part of the complaint, the allottee shall include certification of the pre-filing notice to the

United States and OWRB required by subparagraph (B)(i). If such certification is not included with the complaint, the complaint will be deemed filed 90 days after such certification is complete and filed with the court. Within 60 days after the complaint is filed or deemed filed or within such extended time as the District Court in its discretion may permit, the United States may appear or intervene. After such appearance, intervention or the expiration of the said 60 days or any extension thereof, the proceedings and judgment in such action shall bind the United States and the parties thereto without regard to whether the United States elects to appear or intervene in such action.

(iii) REQUIREMENTS.—An allottee filing an action pursuant to this subparagraph shall—

(I) join the OWRB as a party; and

(II) publish notice in a newspaper of general circulation within the Settlement Area Hydrologic Basin for 2 consecutive weeks, with the first publication appearing not later than 30 days after the date on which the action is filed.

(iv) DETERMINATION FINAL.—

(I) IN GENERAL.—Subject to subclause (II), if an allottee elects to have the rights of the allottee determined pursuant to this subparagraph, the determination shall be final as to any rights under Federal law and in lieu of any rights to use water on an allotment as provided in paragraph (5).

(II) RESERVATION OF RIGHTS.—Subclause (I) shall not preclude an allottee from—

(aa) applying to the OWRB for water rights pursuant to State law; or

(bb) using any rights allowed by State law that do not require a permit from the OWRB.

(7) OWRB ADMINISTRATION AND ENFORCEMENT.—

(A) IN GENERAL.—If an allottee exercises any right under paragraph (5) or has rights determined under paragraph (6)(B), the OWRB shall have jurisdiction to administer those rights.

(B) CHALLENGES.—An allottee may challenge OWRB administration of rights determined under this paragraph, in the United States District Court for the Western District of Oklahoma.

(8) PRIOR EXISTING STATE LAW RIGHTS.—Water rights held by an allottee as of the enforceability date pursuant to a permit issued by the OWRB shall be governed by the terms of that permit and applicable State law (including regulations).

(f) CITY PERMIT FOR APPROPRIATION OF STREAM WATER FROM THE KIAMICHI RIVER.—The City permit shall be processed, evaluated, issued, and administered consistent with and in accordance with the Settlement Agreement and this section.

(g) SETTLEMENT COMMISSION.—

(1) ESTABLISHMENT.—There is established a Settlement Commission.

(2) MEMBERS.—

(A) IN GENERAL.—The Settlement Commission shall be comprised of 5 members, appointed as follows:

- (i) 1 by the Governor of the State.
- (ii) 1 by the Attorney General of the State.
- (iii) 1 by the Chief of the Choctaw Nation.
- (iv) 1 by the Governor of the Chickasaw Nation.
- (v) 1 by agreement of the members described in clauses (i) through (iv).

(B) JOINTLY APPOINTED MEMBER.—If the members described in clauses (i) through (iv) of subparagraph (A) do not agree on a member appointed pursuant to subparagraph (A)(v)—

(i) the members shall submit to the Chief Judge for the United States District Court for the Eastern District of Oklahoma, a list of not less than 3 persons; and

(ii) from the list under clause (i), the Chief Judge shall make the appointment.

(C) INITIAL APPOINTMENTS.—The initial appointments to the Settlement Commission shall be made not later than 90 days after the enforceability date.

(3) MEMBER TERMS.—

(A) IN GENERAL.—Each Settlement Commission member shall serve at the pleasure of appointing authority.

(B) COMPENSATION.—A member of the Settlement Commission shall serve without compensation, but an appointing authority may reimburse the member appointed by the entity for costs associated with service on the Settlement Commission.

(C) VACANCIES.—If a member of the Settlement Commission is removed or resigns, the appointing authority shall appoint the replacement member.

(D) JOINTLY APPOINTED MEMBER.—The member of the Settlement Commission described in paragraph (2)(A)(v) may be removed or replaced by a majority vote of the Settlement Commission based on a failure of the member to carry out the duties of the member.

(4) DUTIES.—The duties and authority of the Settlement Commission shall be set forth in the Settlement Agreement, and the Settlement Commission shall not possess or exercise any duty or authority not stated in the Settlement Agreement.

(h) WAIVERS AND RELEASES OF CLAIMS.—

(1) CLAIMS BY THE NATIONS AND THE UNITED STATES AS TRUSTEE FOR THE NATIONS.—Subject to the retention of rights and claims provided in paragraph (3) and except to the extent that rights are recognized in the Settlement Agreement or this section, the Nations, each in its own right and on behalf of itself and its respective citizens and members (but not individuals in their capacities as allottees), and the United States, acting as a trustee for the Nations (but not individuals in their capacities as allottees), shall execute a waiver and release of—

(A) all of the following claims asserted or which could have been asserted in any proceeding filed or that could have been filed during the period ending on the enforceability date, including Chickasaw Nation, Choctaw Nation

v. Fallin et al., CIV 11-927 (W.D. Ok.), OWRB v. United States, et al. CIV 12-275 (W.D. Ok.), or any general stream adjudication, relating to—

- (i) claims to the ownership of water in the State;
- (ii) claims to water rights and rights to use water diverted or taken from a location within the State;

- (iii) claims to authority over the allocation and management of water and administration of water rights, including authority over third-party ownership of or rights to use water diverted or taken from a location within the State and ownership or use of water on allotments by allottees or any other person using water on an allotment with the permission of an allottee;

- (iv) claims that the State lacks authority over the allocation and management of water and administration of water rights, including authority over the ownership of or rights to use water diverted or taken from a location within the State;

- (v) any other claim relating to the ownership of water, regulation of water, or authorized diversion, storage, or use of water diverted or taken from a location within the State, which claim is based on the status of the Chickasaw Nation's or the Choctaw Nation's unique sovereign status and rights as defined by Federal law and alleged to arise from treaties to which they are signatories, including but not limited to the Treaty of Dancing Rabbit Creek, Act of Sept. 30, 1830, 7 Stat. 333, Treaty of Doaksville, Act of Jan. 17, 1837, 11 Stat. 573, and the related March 23, 1842, patent to the Choctaw Nation; and

- (vi) claims or defenses asserted or which could have been asserted in Chickasaw Nation, Choctaw Nation v. Fallin et al., CIV 11-927 (W.D. Ok.), OWRB v. United States, et al. CIV 12-275 (W.D. Ok.), or any general stream adjudication;

(B) all claims for damages, losses or injuries to water rights or water, or claims of interference with, diversion, storage, taking, or use of water (including claims for injury to land resulting from the damages, losses, injuries, interference with, diversion, storage, taking, or use of water) attributable to any action by the State, the OWRB, or any water user authorized pursuant to State law to take or use water in the State, including the City, that accrued during the period ending on the enforceability date;

(C) all claims and objections relating to the amended permit application, and the City permit, including—

- (i) all claims regarding regulatory control over or OWRB jurisdiction relating to the permit application and permit; and

- (ii) all claims for damages, losses or injuries to water rights or rights to use water, or claims of interference with, diversion, storage, taking, or use of water (including claims for injury to land resulting from the damages, losses, injuries, interference with, diversion, storage, taking, or use of water) attributable to the issuance and lawful exercise of the City permit;

(D) all claims to regulatory control over the Permit Numbers P80-48 and 54-613 of the City for water rights from the Muddy Boggy River for Atoka Reservoir and P73-282D for water rights from the Muddy Boggy River, including McGee Creek, for the McGee Creek Reservoir;

(E) all claims that the State lacks regulatory authority over or OWRB jurisdiction relating to Permit Numbers P80-48 and 54-613 for water rights from the Muddy Boggy River for Atoka Reservoir and P73-282D for water rights from the Muddy Boggy River, including McGee Creek, for the McGee Creek Reservoir;

(F) all claims to damages, losses or injuries to water rights or water, or claims of interference with, diversion, storage, taking, or use of water (including claims for injury to land resulting from such damages, losses, injuries, interference with, diversion, storage, taking, or use of water) attributable to the lawful exercise of Permit Numbers P80-48 and 54-613 for water rights from the Muddy Boggy River for Atoka Reservoir and P73-282D for water rights from the Muddy Boggy River, including McGee Creek, for the McGee Creek Reservoir, that accrued during the period ending on the enforceability date;

(G) all claims and objections relating to the approval by the Secretary of the assignment of the 1974 storage contract pursuant to the amended storage contract; and

(H) all claims for damages, losses, or injuries to water rights or water, or claims of interference with, diversion, storage, taking, or use of water (including claims for injury to land resulting from such damages, losses, injuries, interference with, diversion, storage, taking, or use of water) attributable to the lawful exercise of rights pursuant to the amended storage contract.

(2) WAIVERS AND RELEASES OF CLAIMS BY THE NATIONS AGAINST THE UNITED STATES.—Subject to the retention of rights and claims provided in paragraph (3) and except to the extent that rights are recognized in the Settlement Agreement or this section, the Nations are authorized to execute a waiver and release of all claims against the United States (including any agency or employee of the United States) relating to—

(A) all of the following claims asserted or which could have been asserted in any proceeding filed or that could have been filed by the United States as a trustee during the period ending on the enforceability date, including Chickasaw Nation, Choctaw Nation v. Fallin et al., CIV 11-927 (W.D. Ok.) or OWRB v. United States, et al. CIV 12-275 (W.D. Ok.), or any general stream adjudication, relating to—

- (i) claims to the ownership of water in the State;
- (ii) claims to water rights and rights to use water diverted or taken from a location within the State;
- (iii) claims to authority over the allocation and management of water and administration of water rights, including authority over third-party ownership of or rights to use water diverted or taken from a location within the State and ownership or use of water on allotments by allottees or any other person using

water on an allotment with the permission of an allottee;

(iv) claims that the State lacks authority over the allocation and management of water and administration of water rights, including authority over the ownership of or rights to use water diverted or taken from a location within the State;

(v) any other claim relating to the ownership of water, regulation of water, or authorized diversion, storage, or use of water diverted or taken from a location within the State, which claim is based on the status of the Chickasaw Nation's or the Choctaw Nation's unique sovereign status and rights as defined by Federal law and alleged to arise from treaties to which they are signatories, including but not limited to the Treaty of Dancing Rabbit Creek, Act of Sept. 30, 1830, 7 Stat. 333, Treaty of Doaksville, Act of Jan. 17, 1837, 11 Stat. 573, and the related March 23, 1842, patent to the Choctaw Nation; and

(vi) claims or defenses asserted or which could have been asserted in *Chickasaw Nation, Choctaw Nation v. Fallin et al.*, CIV 11-927 (W.D. Ok.), *OWRB v. United States, et al.* CIV 12-275 (W.D. Ok.), or any general stream adjudication;

(B) all claims for damages, losses or injuries to water rights or water, or claims of interference with, diversion, storage, taking, or use of water (including claims for injury to land resulting from the damages, losses, injuries, interference with, diversion, storage, taking, or use of water) attributable to any action by the State, the OWRB, or any water user authorized pursuant to State law to take or use water in the State, including the City, that accrued during the period ending on the enforceability date;

(C) all claims and objections relating to the amended permit application, and the City permit, including—

(i) all claims regarding regulatory control over or OWRB jurisdiction relating to the permit application and permit; and

(ii) all claims for damages, losses or injuries to water rights or rights to use water, or claims of interference with, diversion, storage, taking, or use of water (including claims for injury to land resulting from the damages, losses, injuries, interference with, diversion, storage, taking, or use of water) attributable to the issuance and lawful exercise of the City permit;

(D) all claims to regulatory control over the Permit Numbers P80-48 and 54-613 for water rights from the Muddy Boggy River for Atoka Reservoir and P73-282D for water rights from the Muddy Boggy River, including McGee Creek, for the McGee Creek Reservoir;

(E) all claims that the State lacks regulatory authority over or OWRB jurisdiction relating to Permit Numbers P80-48 and 54-613 for water rights from the Muddy Boggy River for Atoka Reservoir and P73-282D for water rights from the Muddy Boggy River, including McGee Creek, for the McGee Creek Reservoir;

(F) all claims to damages, losses or injuries to water rights or water, or claims of interference with, diversion, storage, taking, or use of water (including claims for injury to land resulting from the damages, losses, injuries, interference with, diversion, storage, taking, or use of water) attributable to the lawful exercise of Permit Numbers P80-48 and 54-613 for water rights from the Muddy Boggy River for Atoka Reservoir and P73-282D for water rights from the Muddy Boggy River, including McGee Creek, for the McGee Creek Reservoir, that accrued during the period ending on the enforceability date;

(G) all claims and objections relating to the approval by the Secretary of the assignment of the 1974 storage contract pursuant to the amended storage contract;

(H) all claims relating to litigation brought by the United States prior to the enforceability date of the water rights of the Nations in the State; and

(I) all claims relating to the negotiation, execution, or adoption of the Settlement Agreement (including exhibits) or this section.

(3) RETENTION AND RESERVATION OF CLAIMS BY NATIONS AND THE UNITED STATES.—

(A) IN GENERAL.—Notwithstanding the waiver and releases of claims authorized under paragraphs (1) and (2), the Nations and the United States, acting as trustee, shall retain—

(i) all claims for enforcement of the Settlement Agreement and this section;

(ii) all rights to use and protect any water right of the Nations recognized by or established pursuant to the Settlement Agreement, including the right to assert claims for injuries relating to the rights and the right to participate in any general stream adjudication, including any inter se proceeding;

(iii) all claims under—

(I) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), including for damages to natural resources;

(II) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(III) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); and

(IV) any regulations implementing the Acts described in items (I) through (III);

(iv) all claims relating to damage, loss, or injury resulting from an unauthorized diversion, use, or storage of water, including damages, losses, or injuries to land or nonwater natural resources associated with any hunting, fishing, gathering, or cultural right; and

(v) all rights, remedies, privileges, immunities, and powers not specifically waived and released pursuant to this section or the Settlement Agreement.

(B) AGREEMENT.—

(i) IN GENERAL.—As provided in the Settlement Agreement, the Chickasaw Nation shall convey an easement to the City, which easement shall be as

described and depicted in Exhibit 15 to the Settlement Agreement.

(ii) APPLICATION.—The Chickasaw Nation and the City shall cooperate and coordinate on the submission of an application for approval by the Secretary of the Interior of the conveyance under clause (i), in accordance with applicable Federal law.

(iii) RECORDING.—On approval by the Secretary of the Interior of the conveyance of the easement under this clause, the City shall record the easement.

(iv) CONSIDERATION.—In exchange for conveyance of the easement under clause (i), the City shall pay to the Chickasaw Nation the value of past unauthorized use and consideration for future use of the land burdened by the easement, based on an appraisal secured by the City and Nations and approved by the Secretary of the Interior.

(4) EFFECTIVE DATE OF WAIVER AND RELEASES.—The waivers and releases under this subsection take effect on the enforceability date.

(5) TOLLING OF CLAIMS.—Each applicable period of limitation and time-based equitable defense relating to a claim described in this subsection shall be tolled during the period beginning on the date of enactment of this Act and ending on the earlier of the enforceability date or the expiration date under subsection (i)(2).

(i) ENFORCEABILITY DATE.—

(1) IN GENERAL.—The Settlement Agreement shall take effect and be enforceable on the date on which the Secretary of the Interior publishes in the Federal Register a certification that—

(A) to the extent the Settlement Agreement conflicts with this section, the Settlement Agreement has been amended to conform with this section;

(B) the Settlement Agreement, as amended, has been executed by the Secretary of the Interior, the Nations, the Governor of the State, the OWRB, the City, and the Trust;

(C) to the extent the amended storage contract conflicts with this section, the amended storage contract has been amended to conform with this section;

(D) the amended storage contract, as amended to conform with this section, has been—

(i) executed by the State, the City, and the Trust; and

(ii) approved by the Secretary;

(E) an order has been entered in United States v. Oklahoma Water Resources Board, Civ. 98–C–521–E with any modifications to the order dated September 11, 2009, as provided in the Settlement Agreement;

(F) orders of dismissal have been entered in Chickasaw Nation, Choctaw Nation v. Fallin et al., Civ 11–297 (W.D. Ok.) and OWRB v. United States, et al. Civ 12–275 (W.D. Ok.) as provided in the Settlement Agreement;

(G) the OWRB has issued the City Permit;



(H) the final documentation of the Kiamichi Basin hydrologic model is on file at the Oklahoma City offices of the OWRB; and

(I) the Atoka and Sardis Conservation Projects Fund has been funded as provided in the Settlement Agreement.

(2) EXPIRATION DATE.—If the Secretary of the Interior fails to publish a statement of findings under paragraph (1) by not later than September 30, 2020, or such alternative later date as is agreed to by the Secretary of the Interior, the Nations, the State, the City, and the Trust under paragraph (4), the following shall apply:

(A) This section, except for this subsection and any provisions of this section that are necessary to carry out this subsection (but only for purposes of carrying out this subsection) are not effective beginning on September 30, 2020, or the alternative date.

(B) The waivers and release of claims, and the limited waivers of sovereign immunity, shall not become effective.

(C) The Settlement Agreement shall be null and void, except for this paragraph and any provisions of the Settlement Agreement that are necessary to carry out this paragraph.

(D) Except with respect to this paragraph, the State, the Nations, the City, the Trust, and the United States shall not be bound by any obligations or benefit from any rights recognized under the Settlement Agreement.

(E) If the City permit has been issued, the permit shall be null and void, except that the City may resubmit to the OWRB, and the OWRB shall be considered to have accepted, OWRB permit application No. 2007–017 without having waived the original application priority date and appropriate quantities.

(F) If the amended storage contract has been executed or approved, the contract shall be null and void, and the 2010 agreement shall be considered to be in force and effect as between the State and the Trust.

(G) If the Atoka and Sardis Conservation Projects Fund has been established and funded, the funds shall be returned to the respective funding parties with any accrued interest.

(3) NO PREJUDICE.—The occurrence of the expiration date under paragraph (2) shall not in any way prejudice—

(A) any argument or suit that the Nations may bring to contest—

(i) the pursuit by the City of OWRB permit application No. 2007–017, or a modified version; or

(ii) the 2010 agreement;

(B) any argument, defense, or suit the State may bring or assert with regard to the claims of the Nations to water or over water in the settlement area; or

(C) any argument, defense or suit the City may bring or assert—

(i) with regard to the claims of the Nations to water or over water in the settlement area relating to OWRB permit application No. 2007–017, or a modified version; or

(ii) to contest the 2010 agreement.

(4) EXTENSION.—The expiration date under paragraph (2) may be extended in writing if the Nations, the State, the OWRB, the United States, and the City agree that an extension is warranted.

(j) JURISDICTION, WAIVERS OF IMMUNITY FOR INTERPRETATION AND ENFORCEMENT.—

(1) JURISDICTION.—

(A) IN GENERAL.—

(i) EXCLUSIVE JURISDICTION.—The United States District Court for the Western District of Oklahoma shall have exclusive jurisdiction for all purposes and for all causes of action relating to the interpretation and enforcement of the Settlement Agreement, the amended storage contract, or interpretation or enforcement of this section, including all actions filed by an allottee pursuant to subsection (e)(6)(B).

(ii) RIGHT TO BRING ACTION.—The Choctaw Nation, the Chickasaw Nation, the State, the City, the Trust, and the United States shall each have the right to bring an action pursuant to this section.

(iii) NO ACTION IN OTHER COURTS.—No action may be brought in any other Federal, Tribal, or State court or administrative forum for any purpose relating to the Settlement Agreement, amended storage contract, or this section.

(iv) NO MONETARY JUDGMENT.—Nothing in this section authorizes any money judgment or otherwise allows the payment of funds by the United States, the Nations, the State (including the OWRB), the City, or the Trust.

(B) NOTICE AND CONFERENCE.—An entity seeking to interpret or enforce the Settlement Agreement shall comply with the following:

(i) Any party asserting noncompliance or seeking interpretation of the Settlement Agreement or this section shall first serve written notice on the party alleged to be in breach of the Settlement Agreement or violation of this section.

(ii) The notice under clause (i) shall identify the specific provision of the Settlement Agreement or this section alleged to have been violated or in dispute and shall specify in detail the contention of the party asserting the claim and any factual basis for the claim.

(iii) Representatives of the party alleging a breach or violation and the party alleged to be in breach or violation shall meet not later than 30 days after receipt of notice under clause (i) in an effort to resolve the dispute.

(iv) If the matter is not resolved to the satisfaction of the party alleging breach not later than 90 days after the original notice under clause (i), the party may take any appropriate enforcement action consistent with the Settlement Agreement and this subsection.

(2) LIMITED WAIVERS OF SOVEREIGN IMMUNITY.—

(A) IN GENERAL.—The United States and the Nations may be joined in an action filed in the United States District Court for the Western District of Oklahoma.

(B) UNITED STATES IMMUNITY.—Any claim by the United States to sovereign immunity from suit is irrevocably waived for any action brought by the State, the Chickasaw Nation, the Choctaw Nation, the City, or the Trust in the Western District of Oklahoma relating to interpretation or enforcement of the Settlement Agreement or this section, including of the appellate jurisdiction of the United States Court of Appeals for the Tenth Circuit and the Supreme Court of the United States.

(C) CHICKASAW NATION IMMUNITY.—For the exclusive benefit of the State (including the OWRB), the City, the Trust, the Choctaw Nation, and the United States, the sovereign immunity of the Chickasaw Nation from suit is waived solely for any action brought in the Western District of Oklahoma relating to interpretation or enforcement of the Settlement Agreement or this section, if the action is brought by the State or the OWRB, the City, the Trust, the Choctaw Nation, or the United States, including the appellate jurisdiction of the United States Court of Appeals for the Tenth Circuit and the Supreme Court of the United States.

(D) CHOCTAW NATION IMMUNITY.—For the exclusive benefit of the State (including of the OWRB), the City, the Trust, the Chickasaw Nation, and the United States, the Choctaw Nation shall expressly and irrevocably consent to a suit and waive sovereign immunity from a suit solely for any action brought in the Western District of Oklahoma relating to interpretation or enforcement of the Settlement Agreement or this section, if the action is brought by the State, the OWRB, the City, the Trust, the Chickasaw Nation, or the United States, including the appellate jurisdiction of the United States Court of Appeals for the Tenth Circuit and the Supreme Court of the United States.

(k) DISCLAIMER.—

(1) IN GENERAL.—The Settlement Agreement applies only to the claims and rights of the Nations.

(2) NO PRECEDENT.—Nothing in this section or the Settlement Agreement shall be construed in any way to quantify, establish, or serve as precedent regarding the land and water rights, claims, or entitlements to water of any American Indian Tribe other than the Nations, including any other American Indian Tribe in the State.

(3) LIMITATION.—Nothing in the Settlement Agreement—

(A) affects the ability of the United States, acting as sovereign, to take actions authorized by law, including any laws related to health, safety, or the environment, including—

(i) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(ii) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(iii) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); and

- (iv) any regulations implementing the Acts described in this section;
- (B) affects the ability of the United States to raise defenses based on 43 U.S.C. 666(a); and
- (C) affects any rights, claims, or defenses the United States may have with respect to the use of water on Federal lands in the Settlement Area that are not trust lands or Allotments.

## Subtitle G—Blackfeet Water Rights Settlement

Blackfeet  
Water Rights  
Settlement Act.

### SEC. 3701. SHORT TITLE.

This subtitle may be cited as the “Blackfeet Water Rights Settlement Act”.

### SEC. 3702. PURPOSES.

The purposes of this subtitle are—

- (1) to achieve a fair, equitable, and final settlement of claims to water rights in the State of Montana for—
  - (A) the Blackfeet Tribe of the Blackfeet Indian Reservation; and
  - (B) the United States, for the benefit of the Tribe and allottees;
- (2) to authorize, ratify, and confirm the water rights compact entered into by the Tribe and the State, to the extent that the Compact is consistent with this subtitle;
- (3) to authorize and direct the Secretary of the Interior—
  - (A) to execute the Compact; and
  - (B) to take any other action necessary to carry out the Compact in accordance with this subtitle; and
- (4) to authorize funds necessary for the implementation of the Compact and this subtitle.

### SEC. 3703. DEFINITIONS.

In this subtitle:

- (1) ALLOTTEE.—The term “allottee” means any individual who holds a beneficial real property interest in an allotment of Indian land that is—
  - (A) located within the Reservation; and
  - (B) held in trust by the United States.
- (2) BIRCH CREEK AGREEMENT.—The term “Birch Creek Agreement” means—
  - (A) the agreement between the Tribe and the State regarding Birch Creek water use dated January 31, 2008 (as amended on February 13, 2009); and
  - (B) any amendment or exhibit (including exhibit amendments) to that agreement that is executed in accordance with this subtitle.
- (3) BLACKFEET IRRIGATION PROJECT.—The term “Blackfeet Irrigation Project” means the irrigation project authorized by the matter under the heading “Montana” of title II of the Act of March 1, 1907 (34 Stat. 1035, chapter 2285), and administered by the Bureau of Indian Affairs.
- (4) COMPACT.—The term “Compact” means—

(A) the Blackfeet-Montana water rights compact dated April 15, 2009, as contained in section 85-20-1501 of the Montana Code Annotated (2015); and

(B) any amendment or exhibit (including exhibit amendments) to the Compact that is executed to make the Compact consistent with this subtitle.

(5) ENFORCEABILITY DATE.—The term “enforceability date” means the date described in section 3720(f).

(6) LAKE ELWELL.—The term “Lake Elwell” means the water impounded on the Marias River in the State by Tiber Dam, a feature of the Lower Marias Unit of the Pick-Sloan Missouri River Basin Program authorized by section 9 of the Act of December 22, 1944 (commonly known as the “Flood Control Act of 1944”) (58 Stat. 891, chapter 665).

(7) MILK RIVER BASIN.—The term “Milk River Basin” means the North Fork, Middle Fork, South Fork, and main stem of the Milk River and tributaries, from the headwaters to the confluence with the Missouri River.

(8) MILK RIVER PROJECT.—

(A) IN GENERAL.—The term “Milk River Project” means the Bureau of Reclamation project conditionally approved by the Secretary on March 14, 1903, pursuant to the Act of June 17, 1902 (32 Stat. 388, chapter 1093), commencing at Lake Sherburne Reservoir and providing water to a point approximately 6 miles east of Nashua, Montana.

(B) INCLUSIONS.—The term “Milk River Project” includes—

- (i) the St. Mary Unit;
- (ii) the Fresno Dam and Reservoir; and
- (iii) the Dodson pumping unit.

(9) MILK RIVER PROJECT WATER RIGHTS.—The term “Milk River Project water rights” means the water rights held by the Bureau of Reclamation on behalf of the Milk River Project, as finally adjudicated by the Montana Water Court.

(10) MILK RIVER WATER RIGHT.—The term “Milk River water right” means the portion of the Tribal water rights described in article III.F of the Compact and this subtitle.

(11) MISSOURI RIVER BASIN.—The term “Missouri River Basin” means the hydrologic basin of the Missouri River (including tributaries).

(12) MR&I SYSTEM.—The term “MR&I System” means the intake, treatment, pumping, storage, pipelines, appurtenant items, and any other feature of the system, as generally described in the document entitled “Blackfeet Regional Water System”, prepared by DOWL HKM, and dated June 2010, and modified by DOWL HKM, as set out in the addendum to the report dated March 2013.

(13) OM&R.—The term “OM&R” means—

(A) any recurring or ongoing activity associated with the day-to-day operation of a project;

(B) any activity relating to scheduled or unscheduled maintenance of a project; and

(C) any activity relating to replacing a feature of a project.

(14) RESERVATION.—The term “Reservation” means the Blackfeet Indian Reservation of Montana, as—

(A) established by the Treaty of October 17, 1855 (11 Stat. 657); and

(B) modified by—

(i) the Executive order of July 5, 1873 (relating to the Blackfeet Reserve);

(ii) the Act of April 15, 1874 (18 Stat. 28, chapter 96);

(iii) the Executive order of August 19, 1874 (relating to the Blackfeet Reserve);

(iv) the Executive order of April 13, 1875 (relating to the Blackfeet Reserve);

(v) the Executive order of July 13, 1880 (relating to the Blackfeet Reserve);

(vi) the Agreement with the Blackfeet, ratified by the Act of May 1, 1888 (25 Stat. 113, chapter 213); and

(vii) the Agreement with the Blackfeet, ratified by the Act of June 10, 1896 (29 Stat. 353, chapter 398).

(15) **ST. MARY RIVER WATER RIGHT.**—The term “St. Mary River water right” means that portion of the Tribal water rights described in article III.G.1.a.i. of the Compact and this subtitle.

(16) **ST. MARY UNIT.**—

(A) **IN GENERAL.**—The term “St. Mary Unit” means the St. Mary Storage Unit of the Milk River Project authorized by Congress on March 25, 1905.

(B) **INCLUSIONS.**—The term “St. Mary Unit” includes—

(i) Sherburne Dam and Reservoir;

(ii) Swift Current Creek Dike;

(iii) Lower St. Mary Lake;

(iv) St. Mary Canal Diversion Dam; and

(v) St. Mary Canal and appurtenances.

(17) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(18) **STATE.**—The term “State” means the State of Montana.

(19) **SWIFTCURRENT CREEK BANK STABILIZATION PROJECT.**—The term “Swiftcurrent Creek Bank Stabilization Project” means the project to mitigate the physical and environmental problems associated with the St. Mary Unit from Sherburne Dam to the St. Mary River, as described in the report entitled “Boulder/Swiftcurrent Creek Stabilization Project, Phase II Investigations Report”, prepared by DOWL HKM, and dated March 2012.

(20) **TRIBAL WATER RIGHTS.**—The term “Tribal water rights” means the water rights of the Tribe described in article III of the Compact and this subtitle, including—

(A) the Lake Elwell allocation provided to the Tribe under section 3709; and

(B) the instream flow water rights described in section 3719.

(21) **TRIBE.**—The term “Tribe” means the Blackfeet Tribe of the Blackfeet Indian Reservation of Montana.

#### **SEC. 3704. RATIFICATION OF COMPACT.**

(a) **RATIFICATION.**—

(1) **IN GENERAL.**—As modified by this subtitle, the Compact is authorized, ratified, and confirmed.

(2) **AMENDMENTS.**—Any amendment to the Compact is authorized, ratified, and confirmed, to the extent that such amendment is executed to make the Compact consistent with this subtitle.

(b) **EXECUTION.**—

(1) **IN GENERAL.**—To the extent that the Compact does not conflict with this subtitle, the Secretary shall execute the Compact, including all exhibits to, or parts of, the Compact requiring the signature of the Secretary.

(2) **MODIFICATIONS.**—Nothing in this subtitle precludes the Secretary from approving any modification to an appendix or exhibit to the Compact that is consistent with this subtitle, to the extent that the modification does not otherwise require congressional approval under section 2116 of the Revised Statutes (25 U.S.C. 177) or any other applicable provision of Federal law.

(c) **ENVIRONMENTAL COMPLIANCE.**—

(1) **IN GENERAL.**—In implementing the Compact and this subtitle, the Secretary shall comply with all applicable provisions of—

(A) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

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

(C) all other applicable environmental laws and regulations.

(2) **EFFECT OF EXECUTION.**—

(A) **IN GENERAL.**—The execution of the Compact by the Secretary under this section shall not constitute a major Federal action for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) **COMPLIANCE.**—The Secretary shall carry out all Federal compliance activities necessary to implement the Compact and this subtitle.

#### **SEC. 3705. MILK RIVER WATER RIGHT.**

(a) **IN GENERAL.**—With respect to the Milk River water right, the Tribe—

(1) may continue the historical uses and the uses in existence on the date of enactment of this Act; and

(2) except as provided in article III.F.1.d of the Compact, shall not develop new uses until the date on which—

(A) the Tribe has entered into the agreement described in subsection (c); or

(B) the Secretary has established the terms and conditions described in subsection (e).

(b) **WATER RIGHTS ARISING UNDER STATE LAW.**—With respect to any water rights arising under State law in the Milk River Basin owned or acquired by the Tribe, the Tribe—

(1) may continue any use in existence on the date of enactment of this Act; and

(2) shall not change any use until the date on which—

(A) the Tribe has entered into the agreement described in subsection (c); or

(B) the Secretary has established the terms and conditions described in subsection (e).

(c) TRIBAL AGREEMENT.—

(1) IN GENERAL.—In consultation with the Commissioner of Reclamation and the Director of the Bureau of Indian Affairs, the Tribe and the Fort Belknap Indian Community shall enter into an agreement to provide for the exercise of their respective water rights on the respective reservations of the Tribe and the Fort Belknap Indian Community in the Milk River.

(2) CONSIDERATIONS.—The agreement entered into under paragraph (1) shall take into consideration—

(A) the equal priority dates of the 2 Indian tribes;

(B) the water supplies of the Milk River; and

(C) historical, current, and future uses identified by each Indian tribe.

(d) SECRETARIAL DETERMINATION.—

(1) IN GENERAL.—Not later than 120 days after the date on which the agreement described in subsection (c) is submitted to the Secretary, the Secretary shall review and approve or disapprove the agreement.

(2) APPROVAL.—The Secretary shall approve the agreement if the Secretary finds that the agreement—

(A) equitably accommodates the interests of each Indian tribe in the Milk River;

(B) adequately considers the factors described in subsection (c)(2); and

(C) is otherwise in accordance with applicable law.

(3) DEADLINE EXTENSION.—The deadline to review the agreement described in paragraph (1) may be extended by the Secretary after consultation with the Tribe and the Fort Belknap Indian Community.

(e) SECRETARIAL DECISION.—

(1) IN GENERAL.—If the Tribe and the Fort Belknap Indian Community do not, by 3 years after the Secretary certifies under section 3720(f)(5) that the Tribal membership has approved the Compact and this subtitle, enter into an agreement approved under subsection d(2), the Secretary, in the Secretary's sole discretion, shall establish, after consultation with the Tribe and the Fort Belknap Indian Community, terms and conditions that reflect the considerations described in subsection (c)(2) by which the respective water rights of the Tribe and the Fort Belknap Indian Community in the Milk River may be exercised.

(2) CONSIDERATION AS FINAL AGENCY ACTION.—The establishment by the Secretary of terms and conditions under paragraph (1) shall be considered to be a final agency action for purposes of review under chapter 7 of title 5, United States Code.

(3) JUDICIAL REVIEW.—An action for judicial review pursuant to this section shall be brought by not later than the date that is 1 year after the date of notification of the establishment of the terms and conditions under this subsection.

(4) INCORPORATION INTO DECREES.—The agreement under subsection (c), or the decision of the Secretary under this subsection, shall be filed with the Montana Water Court, or the district court with jurisdiction, for incorporation into the final decrees of the Tribe and the Fort Belknap Indian Community.



(5) **EFFECTIVE DATE.**—The agreement under subsection (c) and a decision of the Secretary under this subsection—

(A) shall be effective immediately; and

(B) may not be modified absent—

(i) the approval of the Secretary; and

(ii) the consent of the Tribe and the Fort Belknap Indian Community.

(f) **USE OF FUNDS.**—The Secretary shall distribute equally the funds made available under section 3718(a)(2)(C)(ii) to the Tribe and the Fort Belknap Indian Community to use to reach an agreement under this section, including for technical analyses and legal and other related efforts.

**SEC. 3706. WATER DELIVERY THROUGH MILK RIVER PROJECT.**

(a) **IN GENERAL.**—Subject to the availability of appropriations, the Secretary, acting through the Commissioner of Reclamation, shall carry out the activities authorized under this section with respect to the St. Mary River water right.

(b) **TREATMENT.**—Notwithstanding article IV.D.4 of the Compact, any responsibility of the United States with respect to the St. Mary River water right shall be limited to, and fulfilled pursuant to—

(1) subsection (c) of this section; and

(2) subsection (b)(3) of section 3716 and subsection (a)(1)(C) of section 3718.

(c) **WATER DELIVERY CONTRACT.**—

(1) **IN GENERAL.**—Not later than 180 days after the enforceability date, the Secretary shall enter into a water delivery contract with the Tribe for the delivery of not greater than 5,000 acre-feet per year of the St. Mary River water right through Milk River Project facilities to the Tribe or another entity specified by the Tribe.

(2) **TERMS AND CONDITIONS.**—The contract under paragraph (1) shall establish the terms and conditions for the water deliveries described in paragraph (1) in accordance with the Compact and this subtitle.

(3) **REQUIREMENTS.**—The water delivery contract under paragraph (1) shall include provisions requiring that—

(A) the contract shall be without limit as to term;

(B) the Tribe, and not the United States, shall collect, and shall be entitled to, all consideration due to the Tribe under any lease, contract, or agreement entered into by the Tribe pursuant to subsection (f);

(C) the United States shall have no obligation to monitor, administer, or account for—

(i) any funds received by the Tribe as consideration under any lease, contract, or agreement entered into by the Tribe pursuant to subsection (f); or

(ii) the expenditure of such funds;

(D) if water deliveries under the contract are interrupted for an extended period of time because of damage to, or a reduction in the capacity of, St. Mary Unit facilities, the rights of the Tribe shall be treated in the same manner as the rights of other contractors receiving water deliveries through the Milk River Project with respect to the water delivered under this section;

(E) deliveries of water under this section shall be—

(i) limited to not greater than 5,000 acre-feet of water in any 1 year;

(ii) consistent with operations of the Milk River Project and without additional costs to the Bureau of Reclamation, including OM&R costs; and

(iii) without additional cost to the Milk River Project water users; and

(F) the Tribe shall be required to pay OM&R for water delivered under this section.

(d) SHORTAGE SHARING OR REDUCTION.—

(1) IN GENERAL.—The 5,000 acre-feet per year of water delivered under paragraph (3)(E)(i) of subsection (c) shall not be subject to shortage sharing or reduction, except as provided in paragraph (3)(D) of that subsection.

(2) NO INJURY TO MILK RIVER PROJECT WATER USERS.—Notwithstanding article IV.D.4 of the Compact, any reduction in the Milk River Project water supply caused by the delivery of water under subsection (c) shall not constitute injury to Milk River Project water users.

(e) SUBSEQUENT CONTRACTS.—

(1) IN GENERAL.—As part of the studies authorized by section 3707(c)(1), the Secretary, acting through the Commissioner of Reclamation, and in cooperation with the Tribe, shall identify alternatives to provide to the Tribe water from the St. Mary River water right in quantities greater than the 5,000 acre-feet per year of water described in subsection (c)(3)(E)(i).

(2) CONTRACT FOR WATER DELIVERY.—If the Secretary determines under paragraph (1) that more than 5,000 acre-feet per year of the St. Mary River water right can be delivered to the Tribe, the Secretary shall offer to enter into 1 or more contracts with the Tribe for the delivery of that water, subject to the requirements of subsection (c)(3) (except subsection (c)(3)(E)(i)) and this subsection.

(3) TREATMENT.—Any delivery of water under this subsection shall be subject to reduction in the same manner as for Milk River Project contract holders.

(f) SUBCONTRACTS.—

(1) IN GENERAL.—The Tribe may enter into any subcontract for the delivery of water under this section to a third party, in accordance with section 3715(e).

(2) COMPLIANCE WITH OTHER LAW.—All subcontracts described in paragraph (1) shall comply with—

(A) this subtitle;

(B) the Compact;

(C) the tribal water code; and

(D) other applicable law.

(3) NO LIABILITY.—The Secretary shall not be liable to any party, including the Tribe, for any term of, or any loss or other detriment resulting from, a lease, contract, or other agreement entered into pursuant to this subsection.

(g) EFFECT OF PROVISIONS.—Nothing in this section—

(1) precludes the Tribe from taking the water described in subsection (c)(3)(E)(i), or any additional water provided under subsection (e), from the direct flow of the St. Mary River; or

(2) modifies the quantity of the Tribal water rights described in article III.G.1. of the Compact.

(h) OTHER RIGHTS.—Notwithstanding the requirements of article III.G.1.d of the Compact, after satisfaction of all water rights under State law for use of St. Mary River water, including the Milk River Project water rights, the Tribe shall have the right to the remaining portion of the share of the United States in the St. Mary River under the International Boundary Waters Treaty of 1909 (36 Stat. 2448) for any tribally authorized use or need consistent with this subtitle.

**SEC. 3707. BUREAU OF RECLAMATION ACTIVITIES TO IMPROVE WATER MANAGEMENT.**

(a) MILK RIVER PROJECT PURPOSES.—The purposes of the Milk River Project shall include—

- (1) irrigation;
- (2) flood control;
- (3) the protection of fish and wildlife;
- (4) recreation;
- (5) the provision of municipal, rural, and industrial water supply; and
- (6) hydroelectric power generation.

(b) USE OF MILK RIVER PROJECT FACILITIES FOR THE BENEFIT OF TRIBE.—The use of Milk River Project facilities to transport water for the Tribe pursuant to subsections (c) and (e) of section 3706, together with any use by the Tribe of that water in accordance with this subtitle—

- (1) shall be considered to be an authorized purpose of the Milk River Project; and
- (2) shall not change the priority date of any Tribal water rights.

(c) ST. MARY RIVER STUDIES.—

(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary, in cooperation with the Tribe and the State, shall conduct—

(A) an appraisal study—

(i) to develop a plan for the management and development of water supplies in the St. Mary River Basin and Milk River Basin, including the St. Mary River and Milk River water supplies for the Tribe and the Milk River water supplies for the Fort Belknap Indian Community; and

(ii) to identify alternatives to develop additional water of the St. Mary River for the Tribe; and

(B) a feasibility study—

(i) using the information resulting from the appraisal study conducted under subparagraph (A) and such other information as is relevant, to evaluate the feasibility of—

(I) alternatives for the rehabilitation of the St. Mary Diversion Dam and Canal; and

(II) increased storage in Fresno Dam and Reservoir; and

(ii) to create a cost allocation study that is based on the authorized purposes described in subsections (a) and (b).

(2) COOPERATIVE AGREEMENT.—On request of the Tribe, the Secretary shall enter into a cooperative agreement with the Tribe with respect to the portion of the appraisal study described in paragraph (1)(A).

(3) COSTS NONREIMBURSABLE.—The cost of the studies under this subsection shall not be—

(A) considered to be a cost of the Milk River Project;

or

(B) reimbursable in accordance with the reclamation laws.

(d) SWIFTCURRENT CREEK BANK STABILIZATION.—

(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary, acting through the Commissioner of Reclamation, shall carry out appropriate activities concerning the Swiftcurrent Creek Bank Stabilization Project, including—

(A) a review of the final project design; and

(B) value engineering analyses.

(2) MODIFICATION OF FINAL DESIGN.—Prior to beginning construction activities for the Swiftcurrent Creek Bank Stabilization Project, on the basis of the review conducted under paragraph (1), the Secretary shall negotiate with the Tribe appropriate changes, if any, to the final design—

(A) to ensure compliance with applicable industry standards;

(B) to improve the cost-effectiveness of the Swiftcurrent Creek Bank Stabilization Project; and

(C) to ensure that the Swiftcurrent Creek Bank Stabilization Project may be constructed using only the amounts made available under section 3718.

(3) APPLICABILITY OF ISDEAA.—At the request of the Tribe, and in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.), the Secretary shall enter into 1 or more agreements with the Tribe to carry out the Swiftcurrent Bank Stabilization Project.

(e) ADMINISTRATION.—The Commissioner of Reclamation and the Tribe shall negotiate the cost of any oversight activity carried out by the Bureau of Reclamation under any agreement entered into under this section, subject to the condition that the total cost for the oversight shall not exceed 4 percent of the total costs incurred under this section.

(f) MILK RIVER PROJECT RIGHTS-OF-WAY AND EASEMENTS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Tribe shall grant the United States a right-of-way on Reservation land owned by the Tribe for all uses by the Milk River Project (permissive or otherwise) in existence as of December 31, 2015, including all facilities, flowage easements, and access easements necessary for the operation and maintenance of the Milk River Project.

(2) AGREEMENT REGARDING EXISTING USES.—The Tribe and the Secretary shall enter into an agreement for a process to determine the location, nature, and extent of the existing uses referenced in this subsection. The agreement shall require that—

(A) a panel of three individuals determine the location, nature, and extent of existing uses necessary for the operation and maintenance of the Milk River Project (the “Panel

Determination”), with the Tribe appointing one representative of the Tribe, the Secretary appointing one representative of the Secretary, and those two representatives jointly appointing a third individual;

(B) if the Panel Determination is unanimous, the Tribe grant a right-of-way to the United States for the existing uses identified in the Panel Determination in accordance with applicable law without additional compensation;

(C) if the Panel Determination is not unanimous—

(i) the Secretary adopt the Panel Determination with any amendments the Secretary reasonably determines necessary to correct any clear error (the “Interior Determination”), provided that if any portion of the Panel Determination is unanimous, the Secretary will not amend that portion; and

(ii) the Tribe grant a right-of-way to the United States for the existing uses identified in the Interior Determination in accordance with applicable law without additional compensation, with the agreement providing for the timing of the grant to take into consideration the possibility of review under paragraph (5).

(3) EFFECT.—Determinations made under this subsection—

(A) do not address title as between the United States and the Tribe; and

(B) do not apply to any new use of Reservation land by the United States for the Milk River Project after December 31, 2015.

(4) INTERIOR DETERMINATION AS FINAL AGENCY ACTION.—

Any determination by the Secretary under paragraph (2)(C) shall be considered to be a final agency action for purposes of review under chapter 7 of title 5, United States Code.

(5) JUDICIAL REVIEW.—An action for judicial review pursuant to this section shall be brought by not later than the date that is 1 year after the date of notification of the Interior Determination.

(g) FUNDING.—The total amount of obligations incurred by the Secretary, prior to any adjustment provided for in section 3718, shall not exceed—

(1) \$3,800,000 to carry out subsection (c);

(2) \$20,700,000 to carry out subsection (d); and

(3) \$3,100,000 to carry out subsection (f).

#### **SEC. 3708. ST. MARY CANAL HYDROELECTRIC POWER GENERATION.**

(a) BUREAU OF RECLAMATION JURISDICTION.—Effective beginning on the date of enactment of this Act, the Commissioner of Reclamation shall have exclusive jurisdiction to authorize the development of hydropower on the St. Mary Unit.

(b) RIGHTS OF TRIBE.—

(1) EXCLUSIVE RIGHT OF TRIBE.—Subject to paragraph (2) and notwithstanding any other provision of law, the Tribe shall have the exclusive right to develop and market hydroelectric power of the St. Mary Unit.

(2) LIMITATIONS.—The exclusive right described in paragraph (1)—

(A) shall expire on the date that is 15 years after the date of enactment of an Act appropriating funds for rehabilitation of the St. Mary Unit; but

(B) may be extended by the Secretary at the request of the Tribe.

(3) OM&R COSTS.—Effective beginning on the date that is 10 years after the date on which the Tribe begins marketing hydroelectric power generated from the St. Mary Unit to any third party, the Tribe shall make annual payments for OM&R costs attributable to the direct use of any facilities by the Tribe for hydroelectric power generation, in amounts determined in accordance with the guidelines and methods of the Bureau of Reclamation for assessing OM&R charges.

(c) BUREAU OF RECLAMATION COOPERATION.—The Commissioner of Reclamation shall cooperate with the Tribe in the development of any hydroelectric power generation project under this section.

(d) AGREEMENT.—Before construction of a hydroelectric power generation project under this section, the Tribe shall enter into an agreement with the Commissioner of Reclamation that includes provisions—

(1) requiring that—

(A) the design, construction, and operation of the project shall be consistent with the Bureau of Reclamation guidelines and methods for hydroelectric power development at Bureau facilities, as appropriate; and

(B) the hydroelectric power generation project will not impair the efficiencies of the Milk River Project for authorized purposes;

(2) regarding construction and operating criteria and emergency procedures; and

(3) under which any modification proposed by the Tribe to a facility owned by the Bureau of Reclamation shall be subject to review and approval by the Secretary, acting through the Commissioner of Reclamation.

(e) USE OF HYDROELECTRIC POWER BY TRIBE.—Any hydroelectric power generated in accordance with this section shall be used or marketed by the Tribe.

(f) REVENUES.—The Tribe shall collect and retain any revenues from the sale of hydroelectric power generated by a project under this section.

(g) LIABILITY OF UNITED STATES.—The United States shall have no obligation to monitor, administer, or account for—

(1) any revenues received by the Tribe under this section;

or

(2) the expenditure of those revenues.

(h) PREFERENCE.—During any period for which the exclusive right of the Tribe described in subsection (b)(1) is not in effect, the Tribe shall have a preference to develop hydropower on the St. Mary Unit facilities, in accordance with Bureau of Reclamation guidelines and methods for hydroelectric power development at Bureau facilities.

#### **SEC. 3709. STORAGE ALLOCATION FROM LAKE ELWELL.**

(a)(1) STORAGE ALLOCATION TO TRIBE.—The Secretary shall allocate to the Tribe 45,000 acre-feet per year of water stored in Lake Elwell for use by the Tribe for any beneficial purpose on or off the Reservation, under a water right held by the United States and managed by the Bureau of Reclamation, as measured

at the outlet works of Tiber Dam or through direct pumping from Lake Elwell.

(2) REDUCTION.—Up to 10,000 acre-feet per year of water allocated to the Tribe pursuant to paragraph (1) will be subject to an acre-foot for acre-foot reduction if depletions from the Tribal water rights above Lake Elwell exceed 88,000 acre-feet per year of water because of New Development (as defined in article II.37 of the Compact).

(b) TREATMENT.—

(1) IN GENERAL.—The allocation to the Tribe under subsection (a) shall be considered to be part of the Tribal water rights.

(2) PRIORITY DATE.—The priority date of the allocation to the Tribe under subsection (a) shall be the priority date of the Lake Elwell water right held by the Bureau of Reclamation.

(3) ADMINISTRATION.—The Tribe shall administer the water allocated under subsection (a) in accordance with the Compact and this subtitle.

(c) ALLOCATION AGREEMENT.—

(1) IN GENERAL.—As a condition of receiving an allocation under this section, the Tribe shall enter into an agreement with the Secretary to establish the terms and conditions of the allocation, in accordance with the Compact and this subtitle.

(2) INCLUSIONS.—The agreement under paragraph (1) shall include provisions establishing that—

(A) the agreement shall be without limit as to term;

(B) the Tribe, and not the United States, shall be entitled to all consideration due to the Tribe under any lease, contract, or agreement entered into by the Tribe pursuant to subsection (d);

(C) the United States shall have no obligation to monitor, administer, or account for—

(i) any funds received by the Tribe as consideration under any lease, contract, or agreement entered into by the Tribe pursuant to subsection (d); or

(ii) the expenditure of those funds;

(D) if the capacity or function of Lake Elwell facilities are significantly reduced, or are anticipated to be significantly reduced, for an extended period of time, the Tribe shall have the same rights as other storage contractors with respect to the allocation under this section;

(E) the costs associated with the construction of the storage facilities at Tiber Dam allocable to the Tribe shall be nonreimbursable;

(F) no water service capital charge shall be due or payable for any water allocated to the Tribe pursuant to this section or the allocation agreement, regardless of whether that water is delivered for use by the Tribe or under a lease, contract, or by agreement entered into by the Tribe pursuant to subsection (d);

(G) the Tribe shall not be required to make payments to the United States for any water allocated to the Tribe under this subtitle or the allocation agreement, except for each acre-foot of stored water leased or transferred for industrial purposes as described in subparagraph (H);

(H) for each acre-foot of stored water leased or transferred by the Tribe for industrial purposes—

(i) the Tribe shall pay annually to the United States an amount necessary to cover the proportional share of the annual OM&R costs allocable to the quantity of water leased or transferred by the Tribe for industrial purposes; and

(ii) the annual payments of the Tribe shall be reviewed and adjusted, as appropriate, to reflect the actual OM&R costs for Tiber Dam; and

(I) the adjustment process identified in subsection (a)(2) will be based on specific enumerated provisions.

(d) AGREEMENTS BY TRIBE.—The Tribe may use, lease, contract, exchange, or enter into other agreements for use of the water allocated to the Tribe under subsection (a), if—

(1) the use of water that is the subject of such an agreement occurs within the Missouri River Basin; and

(2) the agreement does not permanently alienate any portion of the water allocated to the Tribe under subsection (a).

(e) EFFECTIVE DATE.—The allocation under subsection (a) takes effect on the enforceability date.

(f) NO CARRYOVER STORAGE.—The allocation under subsection (a) shall not be increased by any year-to-year carryover storage.

(g) DEVELOPMENT AND DELIVERY COSTS.—The United States shall not be required to pay the cost of developing or delivering any water allocated under this section.

#### **SEC. 3710. IRRIGATION ACTIVITIES.**

(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary, acting through the Commissioner of Reclamation and in accordance with subsection (c), shall carry out the following actions relating to the Blackfeet Irrigation Project:

(1) Deferred maintenance.

(2) Dam safety improvements for Four Horns Dam.

(3) Rehabilitation and enhancement of the Four Horns Feeder Canal, Dam, and Reservoir.

(b) LEAD AGENCY.—The Bureau of Reclamation shall serve as the lead agency with respect to any activities carried out under this section.

(c) SCOPE OF DEFERRED MAINTENANCE ACTIVITIES AND FOUR HORNS DAM SAFETY IMPROVEMENTS.—

(1) IN GENERAL.—Subject to the conditions described in paragraph (2), the scope of the deferred maintenance activities and Four Horns Dam safety improvements shall be as generally described in—

(A) the document entitled “Engineering Evaluation and Condition Assessment, Blackfeet Irrigation Project”, prepared by DOWL HKM, and dated August 2007; and

(B) the provisions relating to Four Horns Rehabilitated Dam of the document entitled “Four Horns Dam Enlarged Appraisal Evaluation Design Report”, prepared by DOWL HKM, and dated April 2007.

(2) CONDITIONS.—The conditions referred to in paragraph (1) are that, before commencing construction activities, the Secretary shall—

(A) review the design of the proposed rehabilitation or improvement;

(B) perform value engineering analyses;



(C) perform appropriate Federal environmental compliance activities; and

(D) ensure that the deferred maintenance activities and dam safety improvements may be constructed using only the amounts made available under section 3718.

(d) SCOPE OF REHABILITATION AND ENHANCEMENT OF FOUR HORNS FEEDER CANAL, DAM, AND RESERVOIR.—

(1) IN GENERAL.—The scope of the rehabilitation and improvements shall be as generally described in the document entitled “Four Horns Feeder Canal Rehabilitation with Export”, prepared by DOWL HKM, and dated April 2013, subject to the condition that, before commencing construction activities, the Secretary shall—

(A) review the design of the proposed rehabilitation or improvement;

(B) perform value engineering analyses;

(C) perform appropriate Federal environmental compliance activities; and

(D) ensure that the rehabilitation and improvements may be constructed using only the amounts made available under section 3718.

(2) INCLUSIONS.—The activities carried out by the Secretary under this subsection shall include—

(A) the rehabilitation or improvement of the Four Horns feeder canal system to a capacity of not fewer than 360 cubic feet per second;

(B) the rehabilitation or improvement of the outlet works of Four Horns Dam and Reservoir to deliver not less than 15,000 acre-feet of water per year, in accordance with subparagraph (C); and

(C) construction of facilities to deliver not less than 15,000 acre-feet of water per year from Four Horns Dam and Reservoir, to a point on or near Birch Creek to be designated by the Tribe and the State for delivery of water to the water delivery system of the Pondera County Canal and Reservoir Company on Birch Creek, in accordance with the Birch Creek Agreement.

(3) NEGOTIATION WITH TRIBE.—On the basis of the review described in paragraph (1)(A), the Secretary shall negotiate with the Tribe appropriate changes to the final design of any activity under this subsection to ensure that the final design meets applicable industry standards.

(e) FUNDING.—The total amount of obligations incurred by the Secretary in carrying out this section, prior to any adjustment provided for in section 3718, shall not exceed \$54,900,000, of which—

(1) \$40,900,000 shall be allocated to carry out the activities described in subsection (c); and

(2) \$14,000,000 shall be allocated to carry out the activities described in subsection (d)(2).

(f) NONREIMBURSABILITY OF COSTS.—All costs incurred by the Secretary in carrying out this section shall be nonreimbursable.

(g) NON-FEDERAL CONTRIBUTION.—No part of the project under subsection (d) shall be commenced until the State has made available \$20,000,000 to carry out the activities described in subsection (d)(2).

(h) **ADMINISTRATION.**—The Commissioner of Reclamation and the Tribe shall negotiate the cost of any oversight activity carried out by the Bureau of Reclamation under any agreement entered into under subsection (m), subject to the condition that the total cost for the oversight shall not exceed 4 percent of the total project costs for each project.

(i) **PROJECT EFFICIENCIES.**—If the total cost of planning, design, and construction activities relating to the projects described in this section results in cost savings and is less than the amounts authorized to be obligated, the Secretary, at the request of the Tribe, may—

(1) use those cost savings to carry out a project described in section 3707(d), 3711, 3712, or 3713; or

(2) deposit those cost savings to the Blackfeet OM&R Trust Account.

(j) **OWNERSHIP BY TRIBE OF BIRCH CREEK DELIVERY FACILITIES.**—Notwithstanding any other provision of law, the Secretary shall transfer to the Tribe, at no cost, title in and to the facilities constructed under subsection (d)(2)(C).

(k) **OWNERSHIP, OPERATION, AND MAINTENANCE.**—On transfer to the Tribe of title under subsection (j), the Tribe shall—

(1) be responsible for OM&R in accordance with the Birch Creek Agreement; and

(2) enter into an agreement with the Bureau of Indian Affairs regarding the operation of the facilities described in that subsection.

(l) **LIABILITY OF UNITED STATES.**—The United States shall have no obligation or responsibility with respect the facilities described in subsection (d)(2)(C).

(m) **APPLICABILITY OF ISDEAA.**—At the request of the Tribe, and in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.), the Secretary shall enter into 1 or more agreements with the Tribe to carry out this section.

(n) **EFFECT.**—Nothing in this section—

(1) alters any applicable law (including regulations) under which the Bureau of Indian Affairs collects assessments or carries out Blackfeet Irrigation Project OM&R; or

(2) impacts the availability of amounts made available under subsection (a)(1)(B) of section 3718.

#### **SEC. 3711. DESIGN AND CONSTRUCTION OF MR&I SYSTEM.**

(a) **IN GENERAL.**—Subject to the availability of appropriations, the Secretary, acting through the Commissioner of Reclamation, shall plan, design, and construct the water diversion and delivery features of the MR&I System in accordance with 1 or more agreements between the Secretary and the Tribe.

(b) **LEAD AGENCY.**—The Bureau of Reclamation shall serve as the lead agency with respect to any activity to design and construct the water diversion and delivery features of the MR&I System.

(c) **SCOPE.**—

(1) **IN GENERAL.**—The scope of the design and construction under this section shall be as generally described in the document entitled “Blackfeet Regional Water System”, prepared by DOWL HKM, dated June 2010, and modified by DOWL HKM in the addendum to the report dated March 2013, subject

to the condition that, before commencing final design and construction activities, the Secretary shall—

(A) review the design of the proposed rehabilitation and construction;

(B) perform value engineering analyses; and

(C) perform appropriate Federal compliance activities.

(2) NEGOTIATION WITH TRIBE.—On the basis of the review described in paragraph (1)(A), the Secretary shall negotiate with the Tribe appropriate changes, if any, to the final design—

(A) to ensure that the final design meets applicable industry standards;

(B) to improve the cost-effectiveness of the delivery of MR&I System water; and

(C) to ensure that the MR&I System may be constructed using only the amounts made available under section 3718.

(d) NONREIMBURSABILITY OF COSTS.—All costs incurred by the Secretary in carrying out this section shall be nonreimbursable.

(e) FUNDING.—The total amount of obligations incurred by the Secretary in carrying out this section, prior to any adjustment provided for in section 3718, shall not exceed \$76,200,000.

(f) NON-FEDERAL CONTRIBUTION.—

(1) CONSULTATION.—Before completion of the final design of the MR&I System required by subsection (c), the Secretary shall consult with the Tribe, the State, and other affected non-Federal parties to discuss the possibility of receiving non-Federal contributions for the cost of the MR&I System.

(2) NEGOTIATIONS.—If, based on the extent to which non-Federal parties are expected to use the MR&I System, a non-Federal contribution to the MR&I System is determined by the parties described in paragraph (1) to be appropriate, the Secretary shall initiate negotiations for an agreement regarding the means by which the contributions shall be provided.

(g) OWNERSHIP BY TRIBE.—Title to the MR&I System and all facilities rehabilitated or constructed under this section shall be held by the Tribe.

(h) ADMINISTRATION.—The Commissioner of Reclamation and the Tribe shall negotiate the cost of any oversight activity carried out by the Bureau of Reclamation under any agreement entered into under this section, subject to the condition that the total cost for the oversight shall not exceed 4 percent of the total costs incurred under this section.

(i) OM&R COSTS.—The Federal Government shall have no obligation to pay for the OM&R costs for any facility rehabilitated or constructed under this section.

(j) PROJECT EFFICIENCIES.—If the total cost of planning, design, and construction activities relating to the projects described in this section results in cost savings and is less than the amounts authorized to be obligated, the Secretary, at the request of the Tribe, may—

(1) use those cost savings to carry out a project described in section 3707(d), 3710, 3712, or 3713; or

(2) deposit those cost savings to the Blackfeet OM&R Trust Account.

(k) APPLICABILITY OF ISDEAA.—At the request of the Tribe, and in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.), the Secretary shall

enter into 1 or more agreements with the Tribe to carry out this section.

**SEC. 3712. DESIGN AND CONSTRUCTION OF WATER STORAGE AND IRRIGATION FACILITIES.**

(a) **IN GENERAL.**—Subject to the availability of appropriations, the Secretary, acting through the Commissioner of Reclamation, shall plan, design, and construct 1 or more facilities to store water and support irrigation on the Reservation in accordance with 1 or more agreements between the Secretary and the Tribe.

(b) **LEAD AGENCY.**—The Bureau of Reclamation shall serve as the lead agency with respect to any activity to design and construct the irrigation development and water storage facilities described in subsection (c).

(c) **SCOPE.**—

(1) **IN GENERAL.**—The scope of the design and construction under this section shall be as generally described in the document entitled “Blackfeet Water Storage, Development, and Project Report”, prepared by DOWL HKM, and dated March 13, 2013, as modified and agreed to by the Secretary and the Tribe, subject to the condition that, before commencing final design and construction activities, the Secretary shall—

(A) review the design of the proposed construction;

(B) perform value engineering analyses; and

(C) perform appropriate Federal compliance activities.

(2) **MODIFICATION.**—The Secretary may modify the scope of construction for the projects described in the document referred to in paragraph (1), if—

(A) the modified project is—

(i) similar in purpose to the proposed projects;

and

(ii) consistent with the purposes of this subtitle;

and

(B) the Secretary has consulted with the Tribe regarding any modification.

(3) **NEGOTIATION WITH TRIBE.**—On the basis of the review described in paragraph (1)(A), the Secretary shall negotiate with the Tribe appropriate changes, if any, to the final design—

(A) to ensure that the final design meets applicable industry standards;

(B) to improve the cost-effectiveness of any construction; and

(C) to ensure that the projects may be constructed using only the amounts made available under section 3718.

(d) **NONREIMBURSABILITY OF COSTS.**—All costs incurred by the Secretary in carrying out this section shall be nonreimbursable.

(e) **FUNDING.**—The total amount of obligations incurred by the Secretary in carrying out this section, prior to any adjustment provided for in section 3718, shall not exceed \$87,300,000.

(f) **OWNERSHIP BY TRIBE.**—Title to all facilities rehabilitated or constructed under this section shall be held by the Tribe, except that title to the Birch Creek Unit of the Blackfeet Indian Irrigation Project shall remain with the Bureau of Indian Affairs.

(g) **ADMINISTRATION.**—The Commissioner of Reclamation and the Tribe shall negotiate the cost of any oversight activity carried out by the Bureau of Reclamation under any agreement entered into under this section, subject to the condition that the total

cost for the oversight shall not exceed 4 percent of the total costs incurred under this section.

(h) OM&R COSTS.—The Federal Government shall have no obligation to pay for the OM&R costs for the facilities rehabilitated or constructed under this section.

(i) PROJECT EFFICIENCIES.—If the total cost of planning, design, and construction activities relating to the projects described in this section results in cost savings and is less than the amounts authorized to be obligated, the Secretary, at the request of the Tribe, may—

(1) use those cost savings to carry out a project described in section 3707(d), 3710, 3711, or 3713; or

(2) deposit those cost savings to the Blackfeet OM&R Trust Account.

(j) APPLICABILITY OF ISDEAA.—At the request of the Tribe, and in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.), the Secretary shall enter into 1 or more agreements with the Tribe to carry out this section.

#### **SEC. 3713. BLACKFEET WATER, STORAGE, AND DEVELOPMENT PROJECTS.**

(a) IN GENERAL.—

(1) SCOPE.—The scope of the construction under this section shall be as generally described in the document entitled “Blackfeet Water Storage, Development, and Project Report”, prepared by DOWL HKM, and dated March 13, 2013, as modified and agreed to by the Secretary and the Tribe.

(2) MODIFICATION.—The Tribe may modify the scope of the projects described in the document referred to in paragraph (1) if—

(A) the modified project is—

(i) similar to the proposed project; and

(ii) consistent with the purposes of this subtitle;

and

(B) the modification is approved by the Secretary.

(b) NONREIMBURSABILITY OF COSTS.—All costs incurred by the Secretary in carrying out this section shall be nonreimbursable.

(c) FUNDING.—The total amount of obligations incurred by the Secretary in carrying out this section, prior to any adjustment provided for in section 3718, shall not exceed \$91,000,000.

(d) OM&R COSTS.—The Federal Government shall have no obligation to pay for the OM&R costs for the facilities rehabilitated or constructed under this section.

(e) OWNERSHIP BY TRIBE.—Title to any facility constructed under this section shall be held by the Tribe.

#### **SEC. 3714. EASEMENTS AND RIGHTS-OF-WAY.**

(a) TRIBAL EASEMENTS AND RIGHTS-OF-WAY.—

(1) IN GENERAL.—On request of the Secretary, the Tribe shall grant, at no cost to the United States, such easements and rights-of-way over tribal land as are necessary for the construction of the projects authorized by sections 3710 and 3711.

(2) JURISDICTION.—An easement or right-of-way granted by the Tribe pursuant to paragraph (1) shall not affect in any respect the civil or criminal jurisdiction of the Tribe over the easement or right-of-way.

(b) **LANDOWNER EASEMENTS AND RIGHTS-OF-WAY.**—In partial consideration for the construction activities authorized by section 3711, and as a condition of receiving service from the MR&I System, a landowner shall grant, at no cost to the United States or the Tribe, such easements and rights-of-way over the land of the landowner as may be necessary for the construction of the MR&I System.

(c) **LAND ACQUIRED BY UNITED STATES OR TRIBE.**—Any land acquired within the boundaries of the Reservation by the United States on behalf of the Tribe, or by the Tribe on behalf of the Tribe, in connection with achieving the purposes of this subtitle shall be held in trust by the United States for the benefit of the Tribe.

**SEC. 3715. TRIBAL WATER RIGHTS.**

(a) **CONFIRMATION OF TRIBAL WATER RIGHTS.**—

(1) **IN GENERAL.**—The Tribal water rights are ratified, confirmed, and declared to be valid.

(2) **USE.**—Any use of the Tribal water rights shall be subject to the terms and conditions of the Compact and this subtitle.

(3) **CONFLICT.**—In the event of a conflict between the Compact and this subtitle, the provisions of this subtitle shall control.

(b) **INTENT OF CONGRESS.**—It is the intent of Congress to provide to each allottee benefits that are equivalent to, or exceed, the benefits the allottees possess on the day before the date of enactment of this Act, taking into consideration—

(1) the potential risks, cost, and time delay associated with litigation that would be resolved by the Compact and this subtitle;

(2) the availability of funding under this subtitle and from other sources;

(3) the availability of water from the Tribal water rights; and

(4) the applicability of section 7 of the Act of February 8, 1887 (25 U.S.C. 381), and this subtitle to protect the interests of allottees.

(c) **TRUST STATUS OF TRIBAL WATER RIGHTS.**—The Tribal water rights—

(1) shall be held in trust by the United States for the use and benefit of the Tribe and the allottees in accordance with this subtitle; and

(2) shall not be subject to forfeiture or abandonment.

(d) **ALLOTTEES.**—

(1) **APPLICABILITY OF ACT OF FEBRUARY 8, 1887.**—The provisions of section 7 of the Act of February 8, 1887 (25 U.S.C. 381), relating to the use of water for irrigation purposes, shall apply to the Tribal water rights.

(2) **ENTITLEMENT TO WATER.**—Any entitlement to water of an allottee under Federal law shall be satisfied from the Tribal water rights.

(3) **ALLOCATIONS.**—An allottee shall be entitled to a just and equitable allocation of water for irrigation purposes.

(4) **CLAIMS.**—

(A) **EXHAUSTION OF REMEDIES.**—Before asserting any claim against the United States under section 7 of the Act of February 8, 1887 (25 U.S.C. 381), or any other

applicable law, an allottee shall exhaust remedies available under the tribal water code or other applicable tribal law.

(B) ACTION FOR RELIEF.—After the exhaustion of all remedies available under the tribal water code or other applicable tribal law, an allottee may seek relief under section 7 of the Act of February 8, 1887 (25 U.S.C. 381), or other applicable law.

(5) AUTHORITY OF SECRETARY.—The Secretary shall have the authority to protect the rights of allottees in accordance with this section.

(e) AUTHORITY OF TRIBE.—

(1) IN GENERAL.—The Tribe shall have the authority to allocate, distribute, and lease the Tribal water rights for any use on the Reservation in accordance with the Compact, this subtitle, and applicable Federal law.

(2) OFF-RESERVATION USE.—The Tribe may allocate, distribute, and lease the Tribal water rights for off-Reservation use in accordance with the Compact, subject to the approval of the Secretary.

(3) LAND LEASES BY ALLOTTEES.—Notwithstanding paragraph (1), an allottee may lease any interest in land held by the allottee, together with any water right determined to be appurtenant to the interest in land, in accordance with the tribal water code.

(f) TRIBAL WATER CODE.—

(1) IN GENERAL.—Notwithstanding article IV.C.1. of the Compact, not later than 4 years after the date on which the Tribe ratifies the Compact in accordance with this subtitle, the Tribe shall enact a tribal water code that provides for—

(A) the management, regulation, and governance of all uses of the Tribal water rights in accordance with the Compact and this subtitle; and

(B) establishment by the Tribe of conditions, permit requirements, and other requirements for the allocation, distribution, or use of the Tribal water rights in accordance with the Compact and this subtitle.

(2) INCLUSIONS.—Subject to the approval of the Secretary, the tribal water code shall provide—

(A) that use of water by allottees shall be satisfied with water from the Tribal water rights;

(B) a process by which an allottee may request that the Tribe provide water for irrigation use in accordance with this subtitle, including the provision of water under any allottee lease under section 4 of the Act of June 25, 1910 (25 U.S.C. 403);

(C) a due process system for the consideration and determination by the Tribe of any request by an allottee (or a successor in interest to an allottee) for an allocation of water for irrigation purposes on allotted land, including a process for—

(i) appeal and adjudication of any denied or disputed distribution of water; and

(ii) resolution of any contested administrative decision; and

(D) a requirement that any allottee asserting a claim relating to the enforcement of rights of the allottee under the tribal water code, or to the quantity of water allocated

to land of the allottee, shall exhaust all remedies available to the allottee under tribal law before initiating an action against the United States or petitioning the Secretary pursuant to subsection (d)(4)(B).

(3) ACTION BY SECRETARY.—

(A) IN GENERAL.—During the period beginning on the date of enactment of this Act and ending on the date on which a tribal water code described in paragraphs (1) and (2) is enacted, the Secretary shall administer, with respect to the rights of allottees, the Tribal water rights in accordance with this subtitle.

(B) APPROVAL.—The tribal water code described in paragraphs (1) and (2) shall not be valid unless—

(i) the provisions of the tribal water code required by paragraph (2) are approved by the Secretary; and

(ii) each amendment to the tribal water code that affects a right of an allottee is approved by the Secretary.

(C) APPROVAL PERIOD.—

(i) IN GENERAL.—The Secretary shall approve or disapprove the tribal water code or an amendment to the tribal water code not later than 180 days after the date on which the tribal water code or amendment is submitted to the Secretary.

(ii) EXTENSION.—The deadline described in clause (i) may be extended by the Secretary after consultation with the Tribe.

(g) ADMINISTRATION.—

(1) NO ALIENATION.—The Tribe shall not permanently alienate any portion of the Tribal water rights.

(2) PURCHASES OR GRANTS OF LAND FROM INDIANS.—An authorization provided by this subtitle for the allocation, distribution, leasing, or other arrangement entered into pursuant to this subtitle shall be considered to satisfy any requirement for authorization of the action by treaty or convention imposed by section 2116 of the Revised Statutes (25 U.S.C. 177).

(3) PROHIBITION ON FORFEITURE.—The non-use of all or any portion of the Tribal water rights by a lessee or contractor shall not result in the forfeiture, abandonment, relinquishment, or other loss of all or any portion of the Tribal water rights.

(h) EFFECT.—Except as otherwise expressly provided in this section, nothing in this subtitle—

(1) authorizes any action by an allottee against any individual or entity, or against the Tribe, under Federal, State, tribal, or local law; or

(2) alters or affects the status of any action brought pursuant to section 1491(a) of title 28, United States Code.

**SEC. 3716. BLACKFEET SETTLEMENT TRUST FUND.**

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund, to be known as the “Blackfeet Settlement Trust Fund” (referred to in this section as the “Trust Fund”), to be managed, invested, and distributed by the Secretary and to remain available until expended, consisting of the amounts deposited in the Trust Fund under subsection (c), together with any interest earned on those amounts, for the purpose of carrying out this subtitle.



(b) ACCOUNTS.—The Secretary shall establish in the Trust Fund the following accounts:

- (1) The Administration and Energy Account.
- (2) The OM&R Account.
- (3) The St. Mary Account.
- (4) The Blackfeet Water, Storage, and Development Projects Account.

(c) DEPOSITS.—The Secretary shall deposit in the Trust Fund—

- (1) in the Administration and Energy Account, the amount made available pursuant to section 3718(a)(1)(A);
- (2) in the OM&R Account, the amount made available pursuant to section 3718(a)(1)(B);
- (3) in the St. Mary Account, the amount made available pursuant to section 3718(a)(1)(C); and
- (4) in the Blackfeet Water, Storage, and Development Projects Account, the amount made available pursuant to section 3718(a)(1)(D).

(d) MANAGEMENT AND INTEREST.—

(1) MANAGEMENT.—The Secretary shall manage, invest, and distribute all amounts in the Trust Fund in a manner that is consistent with the investment authority of the Secretary under—

(A) the first section of the Act of June 24, 1938 (25 U.S.C. 162a);

(B) the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.); and

(C) this section.

(2) INTEREST.—In addition to the deposits under subsection (c), any interest credited to amounts unexpended in the Trust Fund are authorized to be appropriated to be used in accordance with the uses described in subsection (h).

(e) AVAILABILITY OF AMOUNTS.—

(1) IN GENERAL.—Amounts appropriated to, and deposited in, the Trust Fund, including any investment earnings, shall be made available to the Tribe by the Secretary beginning on the enforceability date.

(2) FUNDING FOR TRIBAL IMPLEMENTATION ACTIVITIES.—Notwithstanding paragraph (1), on approval pursuant to this subtitle and the Compact by a referendum vote of a majority of votes cast by members of the Tribe on the day of the vote, as certified by the Secretary and the Tribe and subject to the availability of appropriations, of the amounts in the Administration and Energy Account, \$4,800,000 shall be made available to the Tribe for the implementation of this subtitle.

(f) WITHDRAWALS UNDER AIFRMRA.—

(1) IN GENERAL.—The Tribe may withdraw any portion of the funds in the Trust Fund on approval by the Secretary of a tribal management plan submitted by the Tribe in accordance with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(2) REQUIREMENTS.—

(A) IN GENERAL.—In addition to the requirements under the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.), the tribal management plan under paragraph (1) shall require that the Tribe shall spend all amounts withdrawn from the Trust Fund in accordance with this subtitle.

(B) ENFORCEMENT.—The Secretary may carry out such judicial and administrative actions as the Secretary determines to be necessary to enforce the tribal management plan to ensure that amounts withdrawn by the Tribe from the Trust Fund under this subsection are used in accordance with this subtitle.

(g) WITHDRAWALS UNDER EXPENDITURE PLAN.—

(1) IN GENERAL.—The Tribe may submit to the Secretary a request to withdraw funds from the Trust Fund pursuant to an approved expenditure plan.

(2) REQUIREMENTS.—To be eligible to withdraw funds under an expenditure plan under paragraph (1), the Tribe shall submit to the Secretary for approval an expenditure plan for any portion of the Trust Fund that the Tribe elects to withdraw pursuant to this subsection, subject to the condition that the funds shall be used for the purposes described in this subtitle.

(3) INCLUSIONS.—An expenditure plan under this subsection shall include a description of the manner and purpose for which the amounts proposed to be withdrawn from the Trust Fund will be used by the Tribe, in accordance with subsection (h).

(4) APPROVAL.—On receipt of an expenditure plan under this subsection, the Secretary shall approve the plan, if the Secretary determines that the plan—

(A) is reasonable; and

(B) is consistent with, and will be used for, the purposes of this subtitle.

(5) ENFORCEMENT.—The Secretary may carry out such judicial and administrative actions as the Secretary determines to be necessary to enforce an expenditure plan to ensure that amounts disbursed under this subsection are used in accordance with this subtitle.

(h) USES.—Amounts from the Trust Fund shall be used by the Tribe for the following purposes:

(1) The Administration and Energy Account shall be used for administration of the Tribal water rights and energy development projects under this subtitle and the Compact.

(2) The OM&R Account shall be used to assist the Tribe in paying OM&R costs.

(3) The St. Mary Account shall be distributed pursuant to an expenditure plan approved under subsection (g), subject to the conditions that—

(A) during the period for which the amount is available and held by the Secretary, \$500,000 shall be distributed to the Tribe annually as compensation for the deferral of the St. Mary water right; and

(B) any additional amounts deposited in the account may be withdrawn and used by the Tribe to pay OM&R costs or other expenses for 1 or more projects to benefit the Tribe, as approved by the Secretary, subject to the requirement that the Secretary shall not approve an expenditure plan under this paragraph unless the Tribe provides a resolution of the tribal council—

(i) approving the withdrawal of the funds from the account; and

(ii) acknowledging that the Secretary will not be able to distribute funds under subparagraph (A) indefinitely if the principal funds in the account are reduced.

(4) The Blackfeet Water, Storage, and Development Projects Account shall be used to carry out section 3713.

(i) LIABILITY.—The Secretary and the Secretary of the Treasury shall not be liable for the expenditure or investment of any amounts withdrawn from the Trust Fund by the Tribe under subsection (f) or (g).

(j) NO PER CAPITA DISTRIBUTIONS.—No portion of the Trust Fund shall be distributed on a per capita basis to any member of the Tribe.

(k) DEPOSIT OF FUNDS.—On request by the Tribe, the Secretary may deposit amounts from an account described in paragraph (1), (2), or (4) of subsection (b) to any other account the Secretary determines to be appropriate.

**SEC. 3717. BLACKFEET WATER SETTLEMENT IMPLEMENTATION FUND.**

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a nontrust, interest-bearing account, to be known as the “Blackfeet Water Settlement Implementation Fund” (referred to in this section as the “Implementation Fund”), to be managed and distributed by the Secretary, for use by the Secretary for carrying out this subtitle.

(b) ACCOUNTS.—The Secretary shall establish in the Implementation Fund the following accounts:

(1) The MR&I System, Irrigation, and Water Storage Account.

(2) The Blackfeet Irrigation Project Deferred Maintenance and Four Horns Dam Safety Improvements Account.

(3) The St. Mary/Milk Water Management and Activities Fund.

(c) DEPOSITS.—The Secretary shall deposit in the Implementation Fund—

(1) in the MR&I System, Irrigation, and Water Storage Account, the amount made available pursuant to section 3718(a)(2)(A);

(2) in the Blackfeet Irrigation Project Deferred Maintenance and Four Horns Dam Safety Improvements Account, the amount made available pursuant to section 3718(a)(2)(B); and

(3) in the St. Mary/Milk Water Management and Activities Fund, the amount made available pursuant to section 3718(a)(2)(C).

(d) USES.—

(1) MR&I SYSTEM, IRRIGATION, AND WATER STORAGE ACCOUNT.—The MR&I System, Irrigation, and Water Storage Account shall be used to carry out sections 3711 and 3712.

(2) BLACKFEET IRRIGATION PROJECT DEFERRED MAINTENANCE AND FOUR HORNS DAM SAFETY IMPROVEMENTS ACCOUNT.—The Blackfeet Irrigation Project Deferred Maintenance and Four Horns Dam Safety Improvements Account shall be used to carry out section 3710.

(3) ST. MARY/MILK WATER MANAGEMENT AND ACTIVITIES ACCOUNT.—The St. Mary/Milk Water Management and Activities Account shall be used to carry out sections 3705 and 3707.

(e) **MANAGEMENT.**—Amounts in the Implementation Fund shall not be available to the Secretary for expenditure until the enforceability date.

(f) **INTEREST.**—In addition to the deposits under subsection (c), any interest credited to amounts unexpended in the Implementation Fund are authorized to be appropriated to be used in accordance with the uses described in subsection (d).

**SEC. 3718. AUTHORIZATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—Subject to subsection (b), there are authorized to be appropriated to the Secretary—

(1) as adjusted on appropriation to reflect changes since April 2010 in the Consumer Price Index for All Urban Consumers West Urban 50,000 to 1,500,000 index for the amount appropriated—

(A) for deposit in the Administration and Energy Account of the Blackfeet Settlement Trust Fund established under section 3716(b)(1), \$28,900,000;

(B) for deposit in the OM&R Account of the Blackfeet Settlement Trust Fund established under section 3716(b)(2), \$27,760,000;

(C) for deposit in the St. Mary Account of the Blackfeet Settlement Trust Fund established under section 3716(b)(3), \$27,800,000;

(D) for deposit in the Blackfeet Water, Storage, and Development Projects Account of the Blackfeet Settlement Trust Fund established under section 3716(b)(4), \$91,000,000; and

(E) the amount of interest credited to the unexpended amounts of the Blackfeet Settlement Trust Fund; and

(2) as adjusted annually to reflect changes since April 2010 in the Bureau of Reclamation Construction Cost Trends Index applicable to the types of construction involved—

(A) for deposit in the MR&I System, Irrigation, and Water Storage Account of the Blackfeet Water Settlement Implementation Fund established under section 3717(b)(1), \$163,500,000;

(B) for deposit in the Blackfeet Irrigation Project Deferred Maintenance, Four Horns Dam Safety, and Rehabilitation and Enhancement of the Four Horns Feeder Canal, Dam, and Reservoir Improvements Account of the Blackfeet Water Settlement Implementation Fund established under section 3717(b)(2), \$54,900,000, of which—

(i) \$40,900,000 shall be made available for activities and projects under section 3710(c); and

(ii) \$14,000,000 shall be made available for activities and projects under section 3710(d)(2);

(C) for deposit in the St. Mary/Milk Water Management and Activities Account of the Blackfeet Water Settlement Implementation Fund established under section 3717(b)(3), \$28,100,000, of which—

(i) \$27,600,000 shall be allocated in accordance with section 3707(g); and

(ii) \$500,000 shall be used to carry out section 3705; and

(D) the amount of interest credited to the unexpended amounts of the Blackfeet Water Settlement Implementation Fund.

(b) ADJUSTMENTS.—

(1) IN GENERAL.—The adjustment of the amounts authorized to be appropriated pursuant to subsection (a)(1) shall occur each time an amount is appropriated for an account and shall add to, or subtract from, as applicable, the total amount authorized.

(2) REPETITION.—The adjustment process under this subsection shall be repeated for each subsequent amount appropriated until the amount authorized, as adjusted, has been appropriated.

(3) TREATMENT.—The amount of an adjustment may be considered—

(A) to be authorized as of the date on which congressional action occurs; and

(B) in determining the amount authorized to be appropriated.

**SEC. 3719. WATER RIGHTS IN LEWIS AND CLARK NATIONAL FOREST AND GLACIER NATIONAL PARK.**

The instream flow water rights of the Tribe on land within the Lewis and Clark National Forest and Glacier National Park—

(1) are confirmed; and

(2) shall be as described in the document entitled “Stipulation to Address Claims by and for the Benefit of the Blackfeet Indian Tribe to Water Rights in the Lewis & Clark National Forest and Glacier National Park” and as finally decreed by the Montana Water Court, or, if the Montana Water Court is found to lack jurisdiction, by the United States district court with jurisdiction.

**SEC. 3720. WAIVERS AND RELEASES OF CLAIMS.**

(a) IN GENERAL.—

(1) WAIVER AND RELEASE OF CLAIMS BY TRIBE AND UNITED STATES AS TRUSTEE FOR TRIBE.—Subject to the reservation of rights and retention of claims under subsection (c), as consideration for recognition of the Tribal water rights and other benefits as described in the Compact and this subtitle, the Tribe, acting on behalf of the Tribe and members of the Tribe (but not any member of the Tribe as an allottee), and the United States, acting as trustee for the Tribe and the members of the Tribe (but not any member of the Tribe as an allottee), shall execute a waiver and release of all claims for water rights within the State that the Tribe, or the United States acting as trustee for the Tribe, asserted or could have asserted in any proceeding, including a State stream adjudication, on or before the enforceability date, except to the extent that such rights are recognized in the Compact and this subtitle.

(2) WAIVER AND RELEASE OF CLAIMS BY UNITED STATES AS TRUSTEE FOR ALLOTTEES.—Subject to the reservation of rights and the retention of claims under subsection (c), as consideration for recognition of the Tribal water rights and other benefits as described in the Compact and this subtitle, the United States, acting as trustee for allottees, shall execute a waiver and release of all claims for water rights within the Reservation that the United States, acting as trustee for

the allottees, asserted or could have asserted in any proceeding, including a State stream adjudication, on or before the enforceability date, except to the extent that such rights are recognized in the Compact and this subtitle.

(3) WAIVER AND RELEASE OF CLAIMS BY TRIBE AGAINST UNITED STATES.—Subject to the reservation of rights and retention of claims under subsection (d), the Tribe, acting on behalf of the Tribe and members of the Tribe (but not any member of the Tribe as an allottee), shall execute a waiver and release of all claims against the United States (including any agency or employee of the United States)—

(A) relating to—

(i) water rights within the State that the United States, acting as trustee for the Tribe, asserted or could have asserted in any proceeding, including a stream adjudication in the State, except to the extent that such rights are recognized as Tribal water rights under this subtitle;

(ii) damage, loss, or injury to water, water rights, land, or natural resources due to loss of water or water rights (including damages, losses, or injuries to hunting, fishing, gathering, or cultural rights due to loss of water or water rights, claims relating to interference with, diversion, or taking of water, or claims relating to failure to protect, acquire, replace, or develop water, water rights, or water infrastructure) within the State that first accrued at any time on or before the enforceability date;

(iii) a failure to establish or provide a municipal rural or industrial water delivery system on the Reservation;

(iv) a failure to provide for operation or maintenance, or deferred maintenance, for the Blackfeet Irrigation Project or any other irrigation system or irrigation project on the Reservation;

(v) the litigation of claims relating to the water rights of the Tribe in the State; and

(vi) the negotiation, execution, or adoption of the Compact (including exhibits) or this subtitle;

(B) reserved in subsections (b) through (d) of section 3706 of the settlement for the case styled Blackfeet Tribe v. United States, No. 02–127L (Fed. Cl. 2012); and

(C) that first accrued at any time on or before the enforceability date—

(i) arising from the taking or acquisition of the land of the Tribe or resources for the construction of the features of the St. Mary Unit of the Milk River Project;

(ii) relating to the construction, operation, and maintenance of the St. Mary Unit of the Milk River Project, including Sherburne Dam, St. Mary Diversion Dam, St. Mary Canal and associated infrastructure, and the management of flows in Swiftcurrent Creek, including the diversion of Swiftcurrent Creek into Lower St. Mary Lake;

(iii) relating to the construction, operation, and management of Lower Two Medicine Dam and Reservoir and Four Horns Dam and Reservoir, including any claim relating to the failure to provide dam safety improvements for Four Horns Reservoir; or

(iv) relating to the allocation of waters of the Milk River and St. Mary River (including tributaries) between the United States and Canada pursuant to the International Boundary Waters Treaty of 1909 (36 Stat. 2448).

(b) **EFFECTIVENESS.**—The waivers and releases under subsection (a) shall take effect on the enforceability date.

(c) **WITHDRAWAL OF OBJECTIONS.**—The Tribe shall withdraw all objections to the water rights claims filed by the United States for the benefit of the Milk River Project, except objections to those claims consolidated for adjudication within Basin 40J, within 14 days of the certification under subsection (f)(5) that the Tribal membership has approved the Compact and this subtitle.

(1) Prior to withdrawal of the objections, the Tribe may seek leave of the Montana Water Court for a right to reinstate the objections in the event the conditions of enforceability in subsection (f)(1) through (8) are not satisfied by the date of expiration described in section 3723 of this subtitle.

(2) If the conditions of enforceability in subsection (f)(1) through (8) are satisfied, and any authority the Montana Water Court may have granted the Tribe to reinstate objections described in this section has not yet expired, the Tribe shall notify the Montana Water Court and the United States in writing that it will not exercise any such authority.

(d) **RESERVATION OF RIGHTS AND RETENTION OF CLAIMS.**—Notwithstanding the waivers and releases under subsection (a), the Tribe, acting on behalf of the Tribe and members of the Tribe, and the United States, acting as trustee for the Tribe and allottees, shall retain—

(1) all claims relating to—

(A) enforcement of, or claims accruing after the enforceability date relating to water rights recognized under, the Compact, any final decree, or this subtitle;

(B) activities affecting the quality of water, including any claim under—

(i) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), including damages to natural resources;

(ii) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(iii) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (commonly referred to as the “Clean Water Act”); and

(iv) any regulations implementing the Acts described in clauses (i) through (iii); or

(C) damage, loss, or injury to land or natural resources that are not due to loss of water or water rights (including hunting, fishing, gathering, or cultural rights);

(2) all rights to use and protect water rights acquired after the date of enactment of this Act; and

(3) all rights, remedies, privileges, immunities, and powers not specifically waived and released pursuant to this subtitle or the Compact.

(e) EFFECT OF COMPACT AND SUBTITLE.—Nothing in the Compact or this subtitle—

(1) affects the ability of the United States, acting as a sovereign, to take any action authorized by law (including any law relating to health, safety, or the environment), including—

(A) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(B) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(C) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (commonly referred to as the “Clean Water Act”); and

(D) any regulations implementing the Acts described in subparagraphs (A) through (C);

(2) affects the ability of the United States to act as trustee for any other Indian tribe or allottee of any other Indian tribe;

(3) confers jurisdiction on any State court—

(A) to interpret Federal law regarding health, safety, or the environment;

(B) to determine the duties of the United States or any other party pursuant to a Federal law regarding health, safety, or the environment; or

(C) to conduct judicial review of a Federal agency action;

(4) waives any claim of a member of the Tribe in an individual capacity that does not derive from a right of the Tribe;

(5) revives any claim waived by the Tribe in the case styled *Blackfeet Tribe v. United States*, No. 02–127L (Fed. Cl. 2012); or

(6) revives any claim released by an allottee or a tribal member in the settlement for the case styled *Cobell v. Salazar*, No. 1:96CV01285–JR (D.D.C. 2012).

(f) ENFORCEABILITY DATE.—The enforceability date shall be the date on which the Secretary publishes in the Federal Register a statement of findings that—

(1)(A) the Montana Water Court has approved the Compact, and that decision has become final and nonappealable; or

(B) if the Montana Water Court is found to lack jurisdiction, the appropriate United States district court has approved the Compact, and that decision has become final and nonappealable;

(2) all amounts authorized under section 3718(a) have been appropriated;

(3) the agreements required by sections 3706(c), 3707(f), and 3709(c) have been executed;

(4) the State has appropriated and paid into an interest-bearing escrow account any payments due as of the date of enactment of this Act to the Tribe under the Compact, the Birch Creek Agreement, and this subtitle;

(5) the members of the Tribe have voted to approve this subtitle and the Compact by a majority of votes cast on the day of the vote, as certified by the Secretary and the Tribe;



(6) the Secretary has fulfilled the requirements of section 3709(a);

(7) the agreement or terms and conditions referred to in section 3705 are executed and final; and

(8) the waivers and releases described in subsection (a) have been executed by the Tribe and the Secretary.

(g) TOLLING OF CLAIMS.—

(1) IN GENERAL.—Each applicable period of limitation and time-based equitable defense relating to a claim described in this section shall be tolled during the period beginning on the date of enactment of this Act and ending on the date on which the amounts made available to carry out this subtitle are transferred to the Secretary.

(2) EFFECT OF SUBSECTION.—Nothing in this subsection revives any claim or tolls any period of limitation or time-based equitable defense that expired before the date of enactment of this Act.

(h) EXPIRATION.—If all appropriations authorized by this subtitle have not been made available to the Secretary by January 21, 2026, or such alternative later date as is agreed to by the Tribe and the Secretary, the waivers and releases described in this section shall—

(1) expire; and

(2) have no further force or effect.

(i) VOIDING OF WAIVERS.—If the waivers and releases described in this section are void under subsection (h)—

(1) the approval of the United States of the Compact under section 3704 shall no longer be effective;

(2) any unexpended Federal funds appropriated or made available to carry out the activities authorized by this subtitle, together with any interest earned on those funds, and any water rights or contracts to use water and title to other property acquired or constructed with Federal funds appropriated or made available to carry out the activities authorized under this subtitle shall be returned to the Federal Government, unless otherwise agreed to by the Tribe and the United States and approved by Congress; and

(3) except for Federal funds used to acquire or develop property that is returned to the Federal Government under paragraph (2), the United States shall be entitled to offset any Federal funds appropriated or made available to carry out the activities authorized under this subtitle that were expended or withdrawn, together with any interest accrued, against any claims against the United States relating to water rights in the State asserted by the Tribe or any user of the Tribal water rights or in any future settlement of the water rights of the Tribe or an allottee.

#### SEC. 3721. SATISFACTION OF CLAIMS.

(a) TRIBAL CLAIMS.—The benefits realized by the Tribe under this subtitle shall be in complete replacement of, complete substitution for, and full satisfaction of all—

(1) claims of the Tribe against the United States waived and released pursuant to section 3720(a); and

(2) objections withdrawn pursuant to section 3720(c).

(b) **ALLOTTEE CLAIMS.**—The benefits realized by the allottees under this subtitle shall be in complete replacement of, complete substitution for, and full satisfaction of—

(1) all claims waived and released pursuant to section 3720(a)(2); and

(2) any claim of an allottee against the United States similar in nature to a claim described in section 3720(a)(2) that the allottee asserted or could have asserted.

**SEC. 3722. MISCELLANEOUS PROVISIONS.**

(a) **WAIVER OF SOVEREIGN IMMUNITY.**—Except as provided in subsections (a) through (c) of section 208 of the Department of Justice Appropriation Act, 1953 (43 U.S.C. 666), nothing in this subtitle waives the sovereign immunity of the United States.

(b) **OTHER TRIBES NOT ADVERSELY AFFECTED.**—Nothing in this subtitle quantifies or diminishes any land or water right, or any claim or entitlement to land or water, of an Indian tribe, band, or community other than the Tribe.

(c) **LIMITATION ON CLAIMS FOR REIMBURSEMENT.**—With respect to any Indian-owned land located within the Reservation—

(1) the United States shall not submit against that land any claim for reimbursement of the cost to the United States of carrying out this subtitle or the Compact; and

(2) no assessment of that land shall be made regarding that cost.

(d) **LIMITATION ON LIABILITY OF UNITED STATES.**—

(1) **IN GENERAL.**—The United States has no obligation—

(A) to monitor, administer, or account for, in any manner, any funds provided to the Tribe by the State; or

(B) to review or approve any expenditure of those funds.

(2) **INDEMNITY.**—The Tribe shall indemnify the United States, and hold the United States harmless, with respect to all claims (including claims for takings or breach of trust) arising from the receipt or expenditure of amounts described in this subsection.

(e) **EFFECT ON CURRENT LAW.**—Nothing in this section affects any provision of law (including regulations) in effect on the day before the date of enactment of this Act with respect to preenforcement review of any Federal environmental enforcement action.

(f) **EFFECT ON RECLAMATION LAWS.**—The activities carried out by the Commissioner of Reclamation under this subtitle shall not establish a precedent or impact the authority provided under any other provision of the reclamation laws, including—

(1) the Reclamation Rural Water Supply Act of 2006 (43 U.S.C. 2401 et seq.); and

(2) the Omnibus Public Land Management Act of 2009 (Public Law 111–11; 123 Stat. 991).

(g) **IRRIGATION EFFICIENCY IN UPPER BIRCH CREEK DRAINAGE.**—Any activity carried out by the Tribe in the Upper Birch Creek Drainage (as defined in article II.50 of the Compact) using funds made available to carry out this subtitle shall achieve an irrigation efficiency of not less than 50 percent.

(h) **BIRCH CREEK AGREEMENT APPROVAL.**—The Birch Creek Agreement is approved to the extent that the Birch Creek Agreement requires approval under section 2116 of the Revised Statutes (25 U.S.C. 177).

(i) **LIMITATION ON EFFECT.**—Nothing in this subtitle or the Compact—

(1) makes an allocation or apportionment of water between or among States; or

(2) addresses or implies whether, how, or to what extent the Tribal water rights, or any portion of the Tribal water rights, should be accounted for as part of, or otherwise charged against, an allocation or apportionment of water made to a State in an interstate allocation or apportionment.

**SEC. 3723. EXPIRATION ON FAILURE TO MEET ENFORCEABILITY DATE.**

If the Secretary fails to publish a statement of findings under section 3720(f) by not later than January 21, 2025, or such alternative later date as is agreed to by the Tribe and the Secretary, after reasonable notice to the State, as applicable—

(1) this subtitle expires effective on the later of—

(A) January 22, 2025; and

(B) the day after such alternative later date as is agreed to by the Tribe and the Secretary;

(2) any action taken by the Secretary and any contract or agreement entered into pursuant to this subtitle shall be void;

(3) any amounts made available under section 3718, together with any interest on those amounts, that remain unexpended shall immediately revert to the general fund of the Treasury, except for any funds made available under section 3716(e)(2) if the Montana Water Court denies the Tribe's request to reinstate the objections in section 3720(c); and

(4) the United States shall be entitled to offset against any claims asserted by the Tribe against the United States relating to water rights—

(A) any funds expended or withdrawn from the amounts made available pursuant to this subtitle; and

(B) any funds made available to carry out the activities authorized by this subtitle from other authorized sources, except for any funds provided under section 3716(e)(2) if the Montana Water court denies the Tribe's request to reinstate the objections in section 3720(c).

**SEC. 3724. ANTIDEFICIENCY.**

The United States shall not be liable for any failure to carry out any obligation or activity authorized by this subtitle (including any obligation or activity under the Compact) if—

(1) adequate appropriations are not provided expressly by Congress to carry out the purposes of this subtitle; or

(2) there are not enough monies available to carry out the purposes of this subtitle in the Reclamation Water Settlements Fund established under section 10501(a) of the Omnibus Public Land Management Act of 2009 (43 U.S.C. 407(a)).

## Subtitle H—Water Desalination

### SEC. 3801. REAUTHORIZATION OF WATER DESALINATION ACT OF 1996.

(a) AUTHORIZATION OF RESEARCH AND STUDIES.—Section 3 of the Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104–298) is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking “and” at the end;

(B) in paragraph (7), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(8) development of metrics to analyze the costs and benefits of desalination relative to other sources of water (including costs and benefits related to associated infrastructure, energy use, environmental impacts, and diversification of water supplies); and

“(9) development of design and siting specifications that avoid or minimize, adverse economic and environmental impacts.”; and

(2) by adding at the end the following:

“(e) PRIORITIZATION.—In carrying out this section, the Secretary shall prioritize funding for research—

“(1) to reduce energy consumption and lower the cost of desalination, including chloride control;

“(2) to reduce the environmental impacts of seawater desalination and develop technology and strategies to minimize those impacts;

“(3) to improve existing reverse osmosis and membrane technology;

“(4) to carry out basic and applied research on next generation desalination technologies, including improved energy recovery systems and renewable energy-powered desalination systems that could significantly reduce desalination costs;

“(5) to develop portable or modular desalination units capable of providing temporary emergency water supplies for domestic or military deployment purposes; and

“(6) to develop and promote innovative desalination technologies, including chloride control, identified by the Secretary.”.

(b) DESALINATION DEMONSTRATION AND DEVELOPMENT.—Section 4 of the Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104–298) is amended by adding at the end the following:

“(c) PRIORITIZATION.—In carrying out demonstration and development activities under this section, the Secretary shall prioritize projects—

“(1) for the benefit of drought-stricken States and communities;

“(2) for the benefit of States that have authorized funding for research and development of desalination technologies and projects;

“(3) that can reduce reliance on imported water supplies that have an impact on species listed under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

“(4) that demonstrably leverage the experience of international partners with considerable expertise in desalination, such as the State of Israel.

“(d) WATER PRODUCTION.—The Secretary shall provide, as part of the annual budget submission to Congress, an estimate of how much water has been produced and delivered in the past fiscal year using processes and facilities developed or demonstrated using assistance provided under sections 3 and 4. This submission shall include, to the extent practicable, available information on a detailed water accounting by process and facility and the cost per acre foot of water produced and delivered.”.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 8 of the Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104–298) is amended—

(1) in subsection (a), by striking “2013” and inserting “2021”; and

(2) in subsection (b), by striking “for each of fiscal years 2012 through 2013” and inserting “for each of fiscal years 2017 through 2021”.

(d) CONSULTATION.—Section 9 of the Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104–298) is amended—

(1) by striking the section designation and heading and all that follows through “In carrying out” in the first sentence and inserting the following:

**“SEC. 9. CONSULTATION AND COORDINATION.**

“(a) CONSULTATION.—In carrying out”;

(2) in the second sentence, by striking “The authorization” and inserting the following:

“(c) OTHER DESALINATION PROGRAMS.—The authorization”; and

(3) by inserting after subsection (a) (as designated by paragraph (1)) the following:

“(b) COORDINATION OF FEDERAL DESALINATION RESEARCH AND DEVELOPMENT.—The White House Office of Science and Technology Policy shall develop a coordinated strategic plan that—

“(1) establishes priorities for future Federal investments in desalination;

“(2) coordinates the activities of Federal agencies involved in desalination, including the Bureau of Reclamation, the Corps of Engineers, the United States Army Tank Automotive Research, Development and Engineering Center, the National Science Foundation, the Office of Naval Research of the Department of Defense, the National Laboratories of the Department of Energy, the United States Geological Survey, the Environmental Protection Agency, and the National Oceanic and Atmospheric Administration;

“(3) strengthens research and development cooperation with international partners, such as the State of Israel, in the area of desalination technology; and

“(4) promotes public-private partnerships to develop a framework for assessing needs for, and to optimize siting and design of, future ocean desalination projects.”.

## Subtitle I—Amendments to the Great Lakes Fish and Wildlife Restoration Act of 1990

### SEC. 3901. AMENDMENTS TO THE GREAT LAKES FISH AND WILDLIFE RESTORATION ACT OF 1990.

(a) REFERENCES.—Except as otherwise expressly provided, wherever in this section an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Great Lakes Fish and Wildlife Restoration Act of 1990 (16 U.S.C. 941 et seq.).

(b) FINDINGS.—The Act is amended by striking section 1002 and inserting the following:

16 USC 941.

#### “SEC. 1002. FINDINGS.

“Congress finds that—

“(1) the Great Lakes have fish and wildlife communities that are structurally and functionally changing;

“(2) successful fish and wildlife management focuses on the lakes as ecosystems, and effective management requires the coordination and integration of efforts of many partners;

“(3) additional actions and better coordination are needed to protect and effectively manage the fish and wildlife resources, and the habitats on which the resources depend, in the Great Lakes Basin; and

“(4) this Act allows Federal agencies, States, and Indian tribes to work in an effective partnership by providing the funding for restoration work.”.

(c) IDENTIFICATION, REVIEW, AND IMPLEMENTATION OF PROPOSALS AND REGIONAL PROJECTS.—

(1) REQUIREMENTS FOR PROPOSALS AND REGIONAL PROJECTS.—Section 1005(b)(2)(B) (16 U.S.C. 941c(b)(2)(B)) is amended—

(A) in clause (v), by striking “and” at the end;

(B) in clause (vi), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(vii) the strategic action plan of the Great Lakes Restoration Initiative; and

“(viii) each applicable State wildlife action plan.”.

(2) REVIEW OF PROPOSALS.—Section 1005(c)(2)(C) (16 U.S.C. 941c(c)(2)(C)) is amended by striking “Great Lakes Coordinator of the”.

(3) COST SHARING.—Section 1005(e) (16 U.S.C. 941c(e)) is amended—

(A) in paragraph (1)—

(i) by striking “Except as provided in paragraphs (2) and (4), not less than 25 percent of the cost of implementing a proposal” and inserting the following:

“(A) NON-FEDERAL SHARE.—Except as provided in paragraphs (3) and (5) and subject to paragraph (2), not less than 25 percent of the cost of implementing a proposal or regional project”; and

(ii) by adding at the end the following:

“(B) TIME PERIOD FOR PROVIDING MATCH.—The non-Federal share of the cost of implementing a proposal or regional project required under subparagraph (A) may be provided at any time during the 2-year period preceding January 1 of the year in which the Director receives the application for the proposal or regional project.”;

(B) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively; and

(C) by inserting before paragraph (3) (as so redesignated) the following:

“(2) AUTHORIZED SOURCES OF NON-FEDERAL SHARE.—

“(A) IN GENERAL.—The Director may determine the non-Federal share under paragraph (1) by taking into account—

“(i) the appraised value of land or a conservation easement as described in subparagraph (B); or

“(ii) as described in subparagraph (C), the costs associated with—

“(I) securing a conservation easement; and

“(II) restoration or enhancement of the conservation easement.

“(B) APPRAISAL OF CONSERVATION EASEMENT.—

“(i) IN GENERAL.—The value of a conservation easement may be used to satisfy the non-Federal share of the cost of implementing a proposal or regional project required under paragraph (1)(A) if the Director determines that the conservation easement—

“(I) meets the requirements of subsection (b)(2);

“(II) is acquired before the end of the grant period of the proposal or regional project;

“(III) is held in perpetuity for the conservation purposes of the programs of the United States Fish and Wildlife Service related to the Great Lakes Basin, as described in section 1006, by an accredited land trust or conservancy or a Federal, State, or tribal agency;

“(IV) is connected either physically or through a conservation planning process to the proposal or regional project; and

“(V) is appraised in accordance with clause (ii).

“(ii) APPRAISAL.—With respect to the appraisal of a conservation easement described in clause (i)—

“(I) the appraisal valuation date shall be not later than 1 year after the price of the conservation easement was set under a contract; and

“(II) the appraisal shall—

“(aa) conform to the Uniform Standards of Professional Appraisal Practice (USPAP); and

“(bb) be completed by a Federal- or State-certified appraiser.

“(C) COSTS OF SECURING CONSERVATION EASEMENTS.—

“(i) IN GENERAL.—All costs associated with securing a conservation easement and restoration or enhancement of that conservation easement may be

used to satisfy the non-Federal share of the cost of implementing a proposal or regional project required under paragraph (1)(A) if the activities and expenses associated with securing the conservation easement and restoration or enhancement of that conservation easement meet the requirements of subparagraph (B)(i).

“(ii) INCLUSION.—The costs referred to in clause (i) may include cash, in-kind contributions, and indirect costs.

“(iii) EXCLUSION.—The costs referred to in clause (i) may not be costs associated with mitigation or litigation (other than costs associated with the Natural Resource Damage Assessment program).”.

(d) ESTABLISHMENT OF OFFICES.—Section 1007 (16 U.S.C. 941e) is amended—

(1) in subsection (b)—

(A) in the subsection heading, by striking “FISHERY RESOURCES” and inserting “FISH AND WILDLIFE CONSERVATION”; and

(B) by striking “Fishery Resources” each place it appears and inserting “Fish and Wildlife Conservation”;

(2) in subsection (c)—

(A) in the subsection heading, by striking “FISHERY RESOURCES” and inserting “FISH AND WILDLIFE CONSERVATION”; and

(B) by striking “Fishery Resources” each place it appears and inserting “Fish and Wildlife Conservation”;

(3) by striking subsection (a); and

(4) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

(e) REPORTS.—Section 1008 (16 U.S.C. 941f) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by striking “2011” and inserting “2021”;

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking “2007 through 2012” and inserting “2016 through 2020”; and

(B) in paragraph (5), by inserting “the Great Lakes Restoration Initiative Action Plan based on” after “in support of”; and

(3) by striking subsection (c) and inserting the following:

“(c) CONTINUED MONITORING AND ASSESSMENT OF STUDY FINDINGS AND RECOMMENDATIONS.—The Director—

“(1) shall continue to monitor the status, and the assessment, management, and restoration needs, of the fish and wildlife resources of the Great Lakes Basin; and

“(2) may reassess and update, as necessary, the findings and recommendations of the Report.”.

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 1009 (16 U.S.C. 941g) is amended—

(1) in the matter preceding paragraph (1), by striking “2007 through 2012” and inserting “2016 through 2021”;

(2) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking “\$14,000,000” and inserting “\$6,000,000”;



(B) in subparagraph (A), by striking “\$4,600,000” and inserting “\$2,000,000”; and

(C) in subparagraph (B), by striking “\$700,000” and inserting “\$300,000”; and

(3) in paragraph (2), by striking “the activities of” and all that follows through “section 1007” and inserting “the activities of the Upper Great Lakes Fish and Wildlife Conservation Offices and the Lower Great Lakes Fish and Wildlife Conservation Office under section 1007”.

(g) PROHIBITION ON USE OF FUNDS FOR FEDERAL ACQUISITION OF INTERESTS IN LAND.—Section 1009 (16 U.S.C. 941g) is further amended—

(1) by inserting before the sentence the following:

“(a) AUTHORIZATION.—”; and

(2) by adding at the end the following:

“(b) PROHIBITION ON USE OF FUNDS FOR FEDERAL ACQUISITION OF INTERESTS IN LAND.—No funds appropriated or used to carry out this Act may be used for acquisition by the Federal Government of any interest in land.”.

(h) CONFORMING AMENDMENT.—Section 8 of the Great Lakes Fish and Wildlife Restoration Act of 2006 (16 U.S.C. 941 note; Public Law 109–326) is repealed.

## Subtitle J—California Water

### SEC. 4001. OPERATIONS AND REVIEWS.

(a) WATER SUPPLIES.—The Secretary of the Interior and Secretary of Commerce shall provide the maximum quantity of water supplies practicable to Central Valley Project agricultural, municipal and industrial contractors, water service or repayment contractors, water rights settlement contractors, exchange contractors, refuge contractors, and State Water Project contractors, by approving, in accordance with applicable Federal and State laws (including regulations), operations or temporary projects to provide additional water supplies as quickly as possible, based on available information.

(b) ADMINISTRATION.—In carrying out subsection (a), the Secretary of the Interior and Secretary of Commerce shall, consistent with applicable laws (including regulations)—

(1)(A) in close coordination with the California Department of Water Resources and the California Department of Fish and Wildlife, implement a pilot project to test and evaluate the ability to operate the Delta cross-channel gates daily or as otherwise may be appropriate to keep them open to the greatest extent practicable to protect out-migrating salmonids, manage salinities in the interior Delta and any other water quality issues, and maximize Central Valley Project and State Water Project pumping, subject to the condition that the pilot project shall be designed and implemented consistent with operational criteria and monitoring criteria required by the California State Water Resources Control Board; and

(B) design, implement, and evaluate such real-time monitoring capabilities to enable effective real-time operations of the cross channel in order efficiently to meet the objectives described in subparagraph (A);

(2) with respect to the operation of the Delta cross-channel gates described in paragraph (1), collect data on the impact of that operation on—

(A) species listed as threatened or endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(B) water quality; and

(C) water supply benefits;

(3) collaborate with the California Department of Water Resources to install a deflection barrier at Georgiana Slough and the Delta Cross Channel Gate to protect migrating salmonids, consistent with knowledge gained from activities carried out during 2014 and 2015;

(4) upon completion of the pilot project in paragraph (1), submit to the Senate Committees on Energy and Natural Resources and Environment and Public Works and the House Committee on Natural Resources a written notice and explanation on the extent to which the gates are able to remain open and the pilot project achieves all the goals set forth in paragraphs (1) through (3);

(5) implement turbidity control strategies that may allow for increased water deliveries while avoiding jeopardy to adult Delta smelt (*Hypomesus transpacificus*);

(6) in a timely manner, evaluate any proposal to increase flow in the San Joaquin River through a voluntary sale, transfer, or exchange of water from an agency with rights to divert water from the San Joaquin River or its tributaries;

(7) adopt a 1:1 inflow to export ratio for the increment of increased flow, as measured as a 3-day running average at Vernalis during the period from April 1 through May 31, that results from the voluntary sale, transfer, or exchange, unless the Secretary of the Interior and Secretary of Commerce determine in writing that a 1:1 inflow to export ratio for that increment of increased flow will cause additional adverse effects on listed salmonid species beyond the range of the effects anticipated to occur to the listed salmonid species for the duration of the salmonid biological opinion using the best scientific and commercial data available; and subject to the condition that any individual sale, transfer, or exchange using a 1:1 inflow to export ratio adopted under the authority of this section may only proceed if—

(A) the Secretary of the Interior determines that the environmental effects of the proposed sale, transfer, or exchange are consistent with effects permitted under applicable law (including the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.), and the Porter-Cologne Water Quality Control Act (California Water Code 13000 et seq.));

(B) Delta conditions are suitable to allow movement of the acquired, transferred, or exchanged water through the Delta consistent with existing Central Valley Project and State Water Project permitted water rights and the requirements of subsection (a)(1)(H) of the Central Valley Project Improvement Act; and

(C) such voluntary sale, transfer, or exchange of water results in flow that is in addition to flow that otherwise

would occur in the absence of the voluntary sale, transfer, or exchange;

(8)(A) issue all necessary permit decisions during emergency consultation under the authority of the Secretary of the Interior and Secretary of Commerce not later than 60 days after receiving a completed application by the State to place and use temporary barriers or operable gates in Delta channels to improve water quantity and quality for State Water Project and Central Valley Project south-of-Delta water contractors and other water users, which barriers or gates shall provide benefits for species protection and in-Delta water user water quality, provided that they are designed so that, if practicable, formal consultations under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) are not necessary; and

(B) take longer to issue the permit decisions in subparagraph (A) only if the Secretary determines in writing that an Environmental Impact Statement is needed for the proposal to comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(9) allow and facilitate, consistent with existing priorities, water transfers through the C.W. “Bill” Jones Pumping Plant or the Harvey O. Banks Pumping Plant from April 1 to November 30;

(10) require the Director of the United States Fish and Wildlife Service and the Commissioner of Reclamation to—

(A) determine if a written transfer proposal is complete within 30 days after the date of submission of the proposal. If the contracting district or agency or the Secretary determines that the proposal is incomplete, the district or agency or the Secretary shall state with specificity what must be added to or revised for the proposal to be complete;

(B) complete all requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Endangered Species Act of 1973 (16 U.S.C. et seq.) necessary to make final permit decisions on water transfer requests in the State, not later than 45 days after receiving a completed request;

(C) take longer to issue the permit decisions in subparagraph (B) only if the Secretary determines in writing that an Environmental Impact Statement is needed for the proposal to comply with the National Environmental Policy Act of 1969 (42 U.S.C. et seq.), or that the application is incomplete pursuant to subparagraph (A); and

(D) approve any water transfer request described in subparagraph (A) to maximize the quantity of water supplies on the condition that actions associated with the water transfer are consistent with—

(i) existing Central Valley Project and State Water Project permitted water rights and the requirements of section 3405(a)(1)(H) of the Central Valley Project Improvement Act; and

(ii) all other applicable laws and regulations;

(11) in coordination with the Secretary of Agriculture, enter into an agreement with the National Academy of Sciences to conduct a comprehensive study, to be completed not later than 1 year after the date of enactment of this subtitle, on the effectiveness and environmental impacts of salt cedar biological

control efforts on increasing water supplies and improving riparian habitats of the Colorado River and its principal tributaries, in the State of California and elsewhere;

(12) pursuant to the research and adaptive management procedures of the smelt biological opinion and the salmonid biological opinion use all available scientific tools to identify any changes to the real-time operations of Bureau of Reclamation, State, and local water projects that could result in the availability of additional water supplies; and

(13) determine whether alternative operational or other management measures would meet applicable regulatory requirements for listed species while maximizing water supplies and water supply reliability; and

(14) continue to vary the averaging period of the Delta Export/Inflow ratio, to the extent consistent with any applicable State Water Resources Control Board orders under decision D–1641, to operate to a

(A) ratio using a 3-day averaging period on the rising limb of a Delta inflow hydrograph; and

(B) 14-day averaging period on the falling limb of the Delta inflow hydrograph.

(c) OTHER AGENCIES.—To the extent that a Federal agency other than the Department of the Interior and the Department of Commerce has a role in approving projects described in subsections (a) and (b), this section shall apply to the Federal agency.

(d) ACCELERATED PROJECT DECISION AND ELEVATION.—

(1) IN GENERAL.—On request of the Governor of California, the Secretary of the Interior and Secretary of Commerce shall use the expedited procedures under this subsection to make final decisions relating to Federal or federally approved projects or operational changes proposed pursuant to subsections (a) and (b) to provide additional water supplies or otherwise address emergency drought conditions.

(2) REQUEST FOR RESOLUTION.—Not later than 7 days after receiving a request of the Governor of California, the Secretaries referred to in paragraph (1), or the head of another Federal agency responsible for carrying out a review of a project, as applicable, the Secretary of the Interior shall convene a final project decision meeting with the heads of all relevant Federal agencies to decide whether to approve a project to provide emergency water supplies or otherwise address emergency drought condition.

(3) NOTIFICATION.—Upon receipt of a request for a meeting under this subsection, the Secretary of the Interior shall notify the heads of all relevant Federal agencies of the request, including a description of the project to be reviewed and the date for the meeting.

(4) DECISION.—Not later than 10 days after the date on which a meeting is requested under paragraph (2), the head of the relevant Federal agency shall issue a final decision on the project.

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

(3) **LIMITATION.**—The expedited procedures under this subsection apply only to—

(A) proposed new Federal projects or operational changes pursuant to subsection (a) or (b); and

(B) the extent they are consistent with applicable laws (including regulations).

(e) **OPERATIONS PLAN.**—The Secretaries of Commerce and the Interior, in consultation with appropriate State officials, shall develop an operations plan that is consistent with the provisions of this subtitle and other applicable Federal and State laws, including provisions that are intended to provide additional water supplies that could be of assistance during the current drought.

**SEC. 4002. SCIENTIFICALLY SUPPORTED IMPLEMENTATION OF OMR FLOW REQUIREMENTS.**

(a) **IN GENERAL.**—In implementing the provisions of the smelt biological opinion and the salmonid biological opinion, the Secretary of the Interior and the Secretary of Commerce shall manage reverse flow in Old and Middle Rivers at the most negative reverse flow rate allowed under the applicable biological opinion to maximize water supplies for the Central Valley Project and the State Water Project, unless that management of reverse flow in Old and Middle Rivers to maximize water supplies would cause additional adverse effects on the listed fish species beyond the range of effects anticipated to occur to the listed fish species for the duration of the applicable biological opinion, or would be inconsistent with applicable State law requirements, including water quality, salinity control, and compliance with State Water Resources Control Board Order D–1641 or a successor order.

(b) **REQUIREMENTS.**—If the Secretary of the Interior or Secretary of Commerce determines to manage rates of pumping at the C.W. “Bill” Jones and the Harvey O. Banks pumping plants in the southern Delta to achieve a reverse OMR flow rate less negative than the most negative reverse flow rate prescribed by the applicable biological opinion, the Secretary shall—

(1) document in writing any significant facts regarding real-time conditions relevant to the determinations of OMR reverse flow rates, including—

(A) targeted real-time fish monitoring in the Old River pursuant to this section, including as it pertains to the smelt biological opinion monitoring of Delta smelt in the vicinity of Station 902;

(B) near-term forecasts with available salvage models under prevailing conditions of the effects on the listed species of OMR flow at the most negative reverse flow rate prescribed by the biological opinion; and

(C) any requirements under applicable State law; and

(2) explain in writing why any decision to manage OMR reverse flow at rates less negative than the most negative reverse flow rate prescribed by the biological opinion is necessary to avoid additional adverse effects on the listed fish species beyond the range of effects anticipated to occur to the listed fish species for the duration of the applicable biological opinion, after considering relevant factors such as—

(A) the distribution of the listed species throughout the Delta;

(B) the potential effects of high entrainment risk on subsequent species abundance;

(C) the water temperature;

(D) other significant factors relevant to the determination, as required by applicable Federal or State laws;

(E) turbidity; and

(F) whether any alternative measures could have a substantially lesser water supply impact.

(c) **LEVEL OF DETAIL REQUIRED.**—The analyses and documentation required by this section shall be comparable to the depth and complexity as is appropriate for real time decision-making. This section shall not be interpreted to require a level of administrative findings and documentation that could impede the execution of effective real time adaptive management.

(d) **FIRST SEDIMENT FLUSH.**—During the first flush of sediment out of the Delta in each water year, and provided that such determination is based upon objective evidence, notwithstanding subsection (a), the Secretary of the Interior shall manage OMR flow pursuant to the provisions of the smelt biological opinion that protects adult Delta smelt from the first flush if required to do so by the smelt biological opinion.

(e) **CONSTRUCTION.**—The Secretary of the Interior and the Secretary of Commerce are authorized to implement subsection (a) consistent with the results of monitoring through Early Warning Surveys to make real time operational decisions consistent with the current applicable biological opinion.

(f) **CALCULATION OF REVERSE FLOW IN OMR.**—Within 180 days of the enactment of this subtitle, the Secretary of the Interior is directed, in consultation with the California Department of Water Resources, and consistent with the smelt biological opinion and the salmonid biological opinion, to review, modify, and implement, if appropriate, the method used to calculate reverse flow in Old and Middle Rivers, for implementation of the reasonable and prudent alternatives in the smelt biological opinion and the salmonid biological opinion, and any succeeding biological opinions.

**SEC. 4003. TEMPORARY OPERATIONAL FLEXIBILITY FOR STORM EVENTS.**

(a) **IN GENERAL.**—

(1) Nothing in this subtitle authorizes additional adverse effects on listed species beyond the range of the effects anticipated to occur to the listed species for the duration of the smelt biological opinion or salmonid biological opinion, using the best scientific and commercial data available.

(2) When consistent with the environmental protection mandate in paragraph (1) while maximizing water supplies for Central Valley Project and State Water Project contractors, the Secretary of the Interior and the Secretary of Commerce, through an operations plan, shall evaluate and may authorize the Central Valley Project and the State Water Project, combined, to operate at levels that result in OMR flows more negative than the most negative reverse flow rate prescribed by the applicable biological opinion (based on United States Geological Survey gauges on Old and Middle Rivers) daily average as described in subsections (b) and (c) to capture peak flows during storm-related events.

(b) **FACTORS TO BE CONSIDERED.**—In determining additional adverse effects on any listed fish species beyond the range of effects anticipated to occur to the listed fish species for the duration of the smelt biological opinion or salmonid biological opinion, using the best scientific and commercial data available, the Secretaries of the Interior and Commerce may consider factors including:

(1) The degree to which the Delta outflow index indicates a higher level of flow available for diversion.

(2) Relevant physical parameters including projected inflows, turbidity, salinities, and tidal cycles.

(3) The real-time distribution of listed species.

(c) **OTHER ENVIRONMENTAL PROTECTIONS.**—

(1) **STATE LAW.**—The actions of the Secretary of the Interior and the Secretary of Commerce under this section shall be consistent with applicable regulatory requirements under State law.

(2) **FIRST SEDIMENT FLUSH.**—During the first flush of sediment out of the Delta in each water year, and provided that such determination is based upon objective evidence, the Secretary of the Interior shall manage OMR flow pursuant to the portion of the smelt biological opinion that protects adult Delta smelt from the first flush if required to do so by the smelt biological opinion.

(3) **APPLICABILITY OF OPINION.**—This section shall not affect the application of the salmonid biological opinion from April 1 to May 31, unless the Secretary of Commerce finds that some or all of such applicable requirements may be adjusted during this time period to provide emergency water supply relief without resulting in additional adverse effects on listed salmonid species beyond the range of the effects anticipated to occur to the listed salmonid species for the duration of the salmonid biological opinion using the best scientific and commercial data available. In addition to any other actions to benefit water supply, the Secretary of the Interior and the Secretary of Commerce shall consider allowing through-Delta water transfers to occur during this period if they can be accomplished consistent with section 3405(a)(1)(H) of the Central Valley Project Improvement Act and other applicable law. Water transfers solely or exclusively through the State Water Project are not required to be consistent with subsection (a)(1)(H) of the Central Valley Project Improvement Act.

(4) **MONITORING.**—During operations under this section, the Commissioner of Reclamation, in coordination with the Fish and Wildlife Service, National Marine Fisheries Service, and California Department of Fish and Wildlife, shall undertake expanded monitoring programs and other data gathering to improve the efficiency of operations for listed species protections and Central Valley Project and State Water Project water supply to ensure incidental take levels are not exceeded, and to identify potential negative impacts, if any.

(d) **EFFECT OF HIGH OUTFLOWS.**—When exercising their authorities to capture peak flows pursuant to subsection (c), the Secretary of the Interior and the Secretary of Commerce shall not count such days toward the 5-day and 14-day running averages of tidally filtered daily Old and Middle River flow requirements under the smelt biological opinion and salmonid biological opinion, unless doing so is required to avoid additional adverse effects on

listed fish species beyond those anticipated to occur through implementation of the smelt biological opinion and salmonid biological opinion using the best scientific and commercial data available.

(e) **LEVEL OF DETAIL REQUIRED FOR ANALYSIS.**—In articulating the determinations required under this section, the Secretary of the Interior and the Secretary of Commerce shall fully satisfy the requirements herein but shall not be expected to provide a greater level of supporting detail for the analysis than feasible to provide within the short timeframe permitted for timely real-time decisionmaking in response to changing conditions in the Delta.

**SEC. 4004. CONSULTATION ON COORDINATED OPERATIONS.**

(a) **RESOLUTION OF WATER RESOURCE ISSUES.**—In furtherance of the policy established by section 2(c)(2) of the Endangered Species Act of 1973, that Federal agencies shall cooperate with State and local agencies to resolve water resource issues in concert with conservation of endangered species, in any consultation or reconsultation on the coordinated operations of the Central Valley Project and the State Water Project, the Secretaries of the Interior and Commerce shall ensure that any public water agency that contracts for the delivery of water from the Central Valley Project or the State Water Project that so requests shall—

(1) have routine and continuing opportunities to discuss and submit information to the action agency for consideration during the development of any biological assessment;

(2) be informed by the action agency of the schedule for preparation of a biological assessment;

(3) be informed by the consulting agency, the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, of the schedule for preparation of the biological opinion at such time as the biological assessment is submitted to the consulting agency by the action agency;

(4) receive a copy of any draft biological opinion and have the opportunity to review that document and provide comment to the consulting agency through the action agency, which comments will be afforded due consideration during the consultation;

(5) have the opportunity to confer with the action agency and applicant, if any, about reasonable and prudent alternatives prior to the action agency or applicant identifying one or more reasonable and prudent alternatives for consideration by the consulting agency; and

(6) where the consulting agency suggests a reasonable and prudent alternative be informed—

(A) how each component of the alternative will contribute to avoiding jeopardy or adverse modification of critical habitat and the scientific data or information that supports each component of the alternative; and

(B) why other proposed alternative actions that would have fewer adverse water supply and economic impacts are inadequate to avoid jeopardy or adverse modification of critical habitat.

(b) **INPUT.**—When consultation is ongoing, the Secretaries of the Interior and Commerce shall regularly solicit input from and report their progress to the Collaborative Adaptive Management



Team and the Collaborative Science and Adaptive Management Program policy group. The Collaborative Adaptive Management Team and the Collaborative Science and Adaptive Management Program policy group may provide the Secretaries with recommendations to improve the effects analysis and Federal agency determinations. The Secretaries shall give due consideration to the recommendations when developing the Biological Assessment and Biological Opinion.

(c) MEETINGS.—The Secretaries shall establish a quarterly stakeholder meeting during any consultation or reconsultation for the purpose of providing updates on the development of the Biological Assessment and Biological Opinion. The quarterly stakeholder meeting shall be open to stakeholders identified by the Secretaries representing a broad range of interests including environmental, recreational and commercial fishing, agricultural, municipal, Delta, and other regional interests, and including stakeholders that are not state or local agencies.

(d) CLARIFICATION.—Neither subsection (b) or (c) of this section may be used to meet the requirements of subsection (a).

(e) NON-APPLICABILITY OF FACAA.—For the purposes of subsection (b), the Collaborative Adaptive Management Team, the Collaborative Science and Adaptive Management Program policy group, and any recommendations made to the Secretaries, are exempt from the Federal Advisory Committee Act.

#### SEC. 4005. PROTECTIONS.

(a) APPLICABILITY.—This section shall apply only to sections 4001 through 4006.

(b) OFFSET FOR STATE WATER PROJECT.—

(1) IMPLEMENTATION IMPACTS.—The Secretary of the Interior shall confer with the California Department of Fish and Wildlife in connection with the implementation of the applicable provisions of this subtitle on potential impacts to any consistency determination for operations of the State Water Project issued pursuant to California Fish and Game Code section 2080.1.

(2) ADDITIONAL YIELD.—If, as a result of the application of the applicable provisions of this subtitle, the California Department of Fish and Wildlife—

(A) determines that operations of the State Water Project are inconsistent with the consistency determinations issued pursuant to California Fish and Game Code section 2080.1 for operations of the State Water Project; or

(B) requires take authorization under California Fish and Game Code section 2081 for operation of the State Water Project;

in a manner that directly or indirectly results in reduced water supply to the State Water Project as compared with the water supply available under the smelt biological opinion and the salmonid biological opinion; and as a result, Central Valley Project yield is greater than it otherwise would have been, then that additional yield shall be made available to the State Water Project for delivery to State Water Project contractors to offset that reduced water supply, provided that if it is necessary to reduce water supplies for any Central Valley Project authorized uses or contractors to make available to the State

Water Project that additional yield, such reductions shall be applied proportionately to those uses or contractors that benefit from that increased yield.

(3) NOTIFICATION RELATED TO ENVIRONMENTAL PROTECTIONS.—The Secretary of the Interior and Secretary of Commerce shall—

(A) notify the Director of the California Department of Fish and Wildlife regarding any changes in the manner in which the smelt biological opinion or the salmonid biological opinion is implemented; and

(B) confirm that those changes are consistent with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(4) SAVINGS.—Nothing in the applicable provisions of this subtitle shall have any effect on the application of the California Endangered Species Act (California Fish and Game Code sections 2050 through 2116).

(c) AREA OF ORIGIN AND WATER RIGHTS PROTECTIONS.—

(1) IN GENERAL.—The Secretary of the Interior and the Secretary of Commerce, in carrying out the mandates of the applicable provisions of this subtitle, shall take no action that—

(A) diminishes, impairs, or otherwise affects in any manner any area of origin, watershed of origin, county of origin, or any other water rights protection, including rights to water appropriated before December 19, 1914, provided under State law;

(B) limits, expands or otherwise affects the application of section 10505, 10505.5, 11128, 11460, 11461, 11462, 11463 or 12200 through 12220 of the California Water Code or any other provision of State water rights law, without respect to whether such a provision is specifically referred to in this section; or

(C) diminishes, impairs, or otherwise affects in any manner any water rights or water rights priorities under applicable law.

(2) EFFECT OF ACT.—

(A) Nothing in the applicable provisions of this subtitle affects or modifies any obligation of the Secretary of the Interior under section 8 of the Act of June 17, 1902 (32 Stat. 390, chapter 1093).

(B) Nothing in the applicable provisions of this subtitle diminishes, impairs, or otherwise affects in any manner any Project purposes or priorities for the allocation, delivery or use of water under applicable law, including the Project purposes and priorities established under section 3402 and section 3406 of the Central Valley Project Improvement Act (Public Law 102-575; 106 Stat. 4706).

(d) NO REDIRECTED ADVERSE IMPACTS.—

(1) IN GENERAL.—The Secretary of the Interior and Secretary of Commerce shall not carry out any specific action authorized under the applicable provisions of this subtitle that would directly or through State agency action indirectly result in the involuntary reduction of water supply to an individual, district, or agency that has in effect a contract for water with the State Water Project or the Central Valley Project, including Settlement and Exchange contracts, refuge contracts, and Friant Division contracts, as compared to the water supply

that would be provided in the absence of action under this subtitle, and nothing in this section is intended to modify, amend or affect any of the rights and obligations of the parties to such contracts.

(2) ACTION ON DETERMINATION.—If, after exploring all options, the Secretary of the Interior or the Secretary of Commerce makes a final determination that a proposed action under the applicable provisions of this subtitle cannot be carried out in accordance with paragraph (1), that Secretary—

(A) shall document that determination in writing for that action, including a statement of the facts relied on, and an explanation of the basis, for the decision; and

(B) is subject to applicable law, including the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(e) ALLOCATIONS FOR SACRAMENTO VALLEY WATER SERVICE CONTRACTORS.—

(1) DEFINITIONS.—In this subsection:

(A) EXISTING CENTRAL VALLEY PROJECT AGRICULTURAL WATER SERVICE CONTRACTOR WITHIN THE SACRAMENTO RIVER WATERSHED.—The term “existing Central Valley Project agricultural water service contractor within the Sacramento River Watershed” means any water service contractor within the Shasta, Trinity, or Sacramento River division of the Central Valley Project that has in effect a water service contract on the date of enactment of this subtitle that provides water for irrigation.

(B) YEAR TERMS.—The terms “Above Normal”, “Below Normal”, “Dry”, and “Wet”, with respect to a year, have the meanings given those terms in the Sacramento Valley Water Year Type (40–30–30) Index.

(2) ALLOCATIONS OF WATER.—

(A) ALLOCATIONS.—Subject to paragraph (3), the Secretary of the Interior shall make every reasonable effort in the operation of the Central Valley Project to allocate water provided for irrigation purposes to each existing Central Valley Project agricultural water service contractor within the Sacramento River Watershed in accordance with the following:

(i) Not less than 100 percent of the contract quantity of the existing Central Valley Project agricultural water service contractor within the Sacramento River Watershed in a “Wet” year.

(ii) Not less than 100 percent of the contract quantity of the existing Central Valley Project agricultural water service Contractor within the Sacramento River Watershed in an “Above Normal” year.

(iii) Not less than 100 percent of the contract quantity of the existing Central Valley Project agricultural water service contractor within the Sacramento River Watershed in a “Below Normal” year that is preceded by an “Above Normal” or “Wet” year.

(iv) Not less than 50 percent of the contract quantity of the existing Central Valley Project agricultural water service contractor within the Sacramento River Watershed in a “Dry” year that is preceded by a “Below Normal”, “Above Normal”, or “Wet” year.

(v) In any other year not identified in any of clauses (i) through (iv), not less than twice the allocation percentage to south-of-Delta Central Valley Project agricultural water service contractors, up to 100 percent.

(B) EFFECT OF CLAUSE.—In the event of anomalous circumstances, nothing in clause (A)(v) precludes an allocation to an existing Central Valley Project agricultural water service contractor within the Sacramento River Watershed that is greater than twice the allocation percentage to a south-of-Delta Central Valley Project agricultural water service contractor.

(3) PROTECTION OF ENVIRONMENT, MUNICIPAL AND INDUSTRIAL SUPPLIES, AND OTHER CONTRACTORS.—

(A) ENVIRONMENT.—Nothing in paragraph (2) shall adversely affect any protections for the environment, including—

(i) the obligation of the Secretary of the Interior to make water available to managed wetlands pursuant to section 3406(d) of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4722); or

(ii) any obligation—

(I) of the Secretary of the Interior and the Secretary of Commerce under the smelt biological opinion, the salmonid biological opinion, or any other applicable biological opinion; including the Shasta Dam cold water pool requirements as set forth in the salmonid biological opinion or any other applicable State or Federal law (including regulations); or

(II) under the Endangered Species Act of 1973 (16 U.S.C. et seq.), the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4706), or any other applicable State or Federal law (including regulations).

(B) MUNICIPAL AND INDUSTRIAL SUPPLIES.—Nothing in paragraph (2) shall—

(i) modify any provision of a water service contract that addresses municipal or industrial water shortage policies of the Secretary of the Interior and the Secretary of Commerce;

(ii) affect or limit the authority of the Secretary of the Interior and the Secretary of Commerce to adopt or modify municipal and industrial water shortage policies;

(iii) affect or limit the authority of the Secretary of the Interior and the Secretary of Commerce to implement a municipal or industrial water shortage policy;

(iv) constrain, govern, or affect, directly or indirectly, the operations of the American River division of the Central Valley Project or any deliveries from that division or a unit or facility of that division; or

(v) affects any allocation to a Central Valley Project municipal or industrial water service contractor by increasing or decreasing allocations to the contractor,

as compared to the allocation the contractor would have received absent paragraph (2).

(C) OTHER CONTRACTORS.—Nothing in paragraph (2) shall—

(i) affect the priority of any individual or entity with a Sacramento River settlement contract over water service or repayment contractors;

(ii) affect the obligation of the United States to make a substitute supply of water available to the San Joaquin River exchange contractors;

(iii) affect the allocation of water to Friant division contractors of the Central Valley Project;

(iv) result in the involuntary reduction in contract water allocations to individuals or entities with contracts to receive water from the Friant division;

(v) result in the involuntary reduction in water allocations to refuge contractors; or

(vi) authorize any actions inconsistent with State water rights law.

#### SEC. 4006. NEW MELONES RESERVOIR.

The Commissioner is directed to work with local water and irrigation districts in the Stanislaus River Basin to ascertain the water storage made available by the Draft Plan of Operations in New Melones Reservoir (DRPO) for water conservation programs, conjunctive use projects, water transfers, rescheduled project water and other projects to maximize water storage and ensure the beneficial use of the water resources in the Stanislaus River Basin. All such programs and projects shall be implemented according to all applicable laws and regulations. The source of water for any such storage program at New Melones Reservoir shall be made available under a valid water right, consistent with the State water transfer guidelines and any other applicable State water law. The Commissioner shall inform the Congress within 18 months setting forth the amount of storage made available by the DRPO that has been put to use under this program, including proposals received by the Commissioner from interested parties for the purpose of this section.

#### SEC. 4007. STORAGE.

43 USC 390b  
note.

(a) DEFINITIONS.—In this subtitle:

(1) FEDERALLY OWNED STORAGE PROJECT.—The term “federally owned storage project” means any project involving a surface water storage facility in a Reclamation State—

(A) to which the United States holds title; and

(B) that was authorized to be constructed, operated, and maintained pursuant to the reclamation laws.

(2) STATE-LED STORAGE PROJECT.—The term “State-led storage project” means any project in a Reclamation State that—

(A) involves a groundwater or surface water storage facility constructed, operated, and maintained by any State, department of a State, subdivision of a State, or public agency organized pursuant to State law; and

(B) provides a benefit in meeting any obligation under Federal law (including regulations).

(b) FEDERALLY OWNED STORAGE PROJECTS.—

(1) AGREEMENTS.—On the request of any State, any department, agency, or subdivision of a State, or any public agency

organized pursuant to State law, the Secretary of the Interior may negotiate and enter into an agreement on behalf of the United States for the design, study, and construction or expansion of any federally owned storage project in accordance with this section.

(2) **FEDERAL COST SHARE.**—Subject to the requirements of this subsection, the Secretary of the Interior may participate in a federally owned storage project in an amount equal to not more than 50 percent of the total cost of the federally owned storage project.

(3) **COMMENCEMENT.**—The construction of a federally owned storage project that is the subject of an agreement under this subsection shall not commence until the Secretary of the Interior—

(A) determines that the proposed federally owned storage project is feasible in accordance with the reclamation laws;

(B) secures an agreement providing upfront funding as is necessary to pay the non-Federal share of the capital costs; and

(C) determines that, in return for the Federal cost-share investment in the federally owned storage project, at least a proportionate share of the project benefits are Federal benefits, including water supplies dedicated to specific purposes such as environmental enhancement and wildlife refuges.

(4) **ENVIRONMENTAL LAWS.**—In participating in a federally owned storage project under this subsection, the Secretary of the Interior shall comply with all applicable environmental laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(c) **STATE-LED STORAGE PROJECTS.**—

(1) **IN GENERAL.**—Subject to the requirements of this subsection, the Secretary of the Interior may participate in a State-led storage project in an amount equal to not more than 25 percent of the total cost of the State-led storage project.

(2) **REQUEST BY GOVERNOR.**—Participation by the Secretary of the Interior in a State-led storage project under this subsection shall not occur unless—

(A) the participation has been requested by the Governor of the State in which the State-led storage project is located;

(B) the State or local sponsor determines, and the Secretary of the Interior concurs, that—

(i) the State-led storage project is technically and financially feasible and provides a Federal benefit in accordance with the reclamation laws;

(ii) sufficient non-Federal funding is available to complete the State-led storage project; and

(iii) the State-led storage project sponsors are financially solvent;

(C) the Secretary of the Interior determines that, in return for the Federal cost-share investment in the State-led storage project, at least a proportional share of the project benefits are the Federal benefits, including water supplies dedicated to specific purposes such as environmental enhancement and wildlife refuges; and

(D) the Secretary of the Interior submits to Congress a written notification of these determinations within 30 days of making such determinations.

(3) ENVIRONMENTAL LAWS.—When participating in a State-led storage project under this subsection, the Secretary shall comply with all applicable environmental laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(4) INFORMATION.—When participating in a State-led storage project under this subsection, the Secretary of the Interior—

(A) may rely on reports prepared by the sponsor of the State-led storage project, including feasibility (or equivalent) studies, environmental analyses, and other pertinent reports and analyses; but

(B) shall retain responsibility for making the independent determinations described in paragraph (2).

(d) AUTHORITY TO PROVIDE ASSISTANCE.—The Secretary of the Interior may provide financial assistance under this subtitle to carry out projects within any Reclamation State.

(e) RIGHTS TO USE CAPACITY.—Subject to compliance with State water rights laws, the right to use the capacity of a federally owned storage project or State-led storage project for which the Secretary of the Interior has entered into an agreement under this subsection shall be allocated in such manner as may be mutually agreed to by the Secretary of the Interior and each other party to the agreement.

(f) COMPLIANCE WITH CALIFORNIA WATER BOND.—

(1) IN GENERAL.—The provision of Federal funding for construction of a State-led storage project in the State of California shall be subject to the condition that the California Water Commission shall determine that the State-led storage project is consistent with the California Water Quality, Supply, and Infrastructure Improvement Act, approved by California voters on November 4, 2014.

(2) APPLICABILITY.—This subsection expires on the date on which State bond funds available under the Act referred to in paragraph (1) are expended.

(g) PARTNERSHIP AND AGREEMENTS.—The Secretary of the Interior, acting through the Commissioner, may partner or enter into an agreement regarding the water storage projects identified in section 103(d)(1) of the Water Supply, Reliability, and Environmental Improvement Act (Public Law 108–361; 118 Stat. 1688) with local joint powers authorities formed pursuant to State law by irrigation districts and other local water districts and local governments within the applicable hydrologic region, to advance those projects.

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) \$335,000,000 of funding in section 4011(e) is authorized to remain available until expended.

(2) Projects can only receive funding if enacted appropriations legislation designates funding to them by name, after the Secretary recommends specific projects for funding pursuant to this section and transmits such recommendations to the appropriate committees of Congress.

(i) SUNSET.—This section shall apply only to federally owned storage projects and State-led storage projects that the Secretary of the Interior determines to be feasible before January 1, 2021.

(j) **CONSISTENCY WITH STATE LAW.**—Nothing in this section preempts or modifies any obligation of the United States to act in conformance with applicable State law.

(k) **CALFED AUTHORIZATION.**—Title I of Public Law 108-361 (the Calfed Bay-Delta Authorization Act) (118 Stat. 1681; 123 Stat. 2860; 128 Stat. 164; 128 Stat. 2312) (as amended by section 207 of Public Law 114-113) is amended by striking “2017” each place it appears and inserting “2019”.

**SEC. 4008. LOSSES CAUSED BY THE CONSTRUCTION AND OPERATION OF STORAGE PROJECTS.**

(a) **MARINAS, RECREATIONAL FACILITIES, OTHER BUSINESSES.**—If in constructing any new or modified water storage project included in section 103(d)(1)(A) of Public Law 108-361 (118 Stat. 1684), the Bureau of Reclamation destroys or otherwise adversely affects any existing marina, recreational facility, or other water-dependent business when constructing or operating a new or modified water storage project, the Secretaries of the Interior and Agriculture, acting through the Bureau and the Forest Service shall—

- (1) provide compensation otherwise required by law; and
- (2) provide the owner of the affected marina, recreational facility, or other water-dependent business under mutually agreeable terms and conditions with the right of first refusal to construct and operate a replacement marina, recreational facility, or other water-dependent business, as the case may be, on United States land associated with the new or modified water storage project.

(b) **HYDROELECTRIC PROJECTS.**—If in constructing any new or modified water storage project included in section 103(d)(1)(A) of Public Law 108-361 (118 Stat. 1684), the Bureau of Reclamation reduces or eliminates the capacity or generation of any existing non-Federal hydroelectric project by inundation or otherwise, the Secretary of the Interior shall, subject to the requirements and limitations of this section—

- (1) provide compensation otherwise required by law;
- (2) provide the owner of the affected hydroelectric project under mutually agreeable terms and conditions with a right of first refusal to construct, operate, and maintain replacement hydroelectric generating facilities at such new or modified water storage project on Federal land associated with the new or modified water storage project or on private land owned by the affected hydroelectric project owner;
- (3) provide compensation for the construction of any water conveyance facilities as are necessary to convey water to any new powerhouse constructed by such owner in association with such new hydroelectric generating facilities;
- (4) provide for paragraphs (1), (2), and (3) at a cost not to exceed the estimated value of the actual impacts to any existing non-Federal hydroelectric project, including impacts to its capacity and energy value, and as estimated for the associated feasibility study, including additional planning, environmental, design, construction, and operations and maintenance costs for existing and replacement facilities; and
- (5) ensure that action taken under paragraphs (1), (2), (3), and (4) shall not directly or indirectly increase the costs to recipients of power marketed by the Western Area Power Administration, nor decrease the value of such power.



(c) **EXISTING LICENSEE.**—The owner of any project affected under subsection (b)(2) shall be deemed the existing licensee, in accordance with section 15(a) of the Act of June 10, 1920 (16 U.S.C. 808(a)), for any replacement project to be constructed within the proximate geographic area of the affected project.

(d) **COST ALLOCATION.**—

(1) **COMPENSATION.**—Any compensation under this section shall be a project cost allocated solely to the direct beneficiaries of the new or modified water project constructed under this section.

(2) **REPLACEMENT COSTS.**—The costs of the replacement project, and any compensation, shall be—

(A) treated as a stand-alone project and shall not be financially integrated in any other project; and

(B) allocated in accordance with mutually agreeable terms between the Secretary and project beneficiaries.

(e) **APPLICABILITY.**—This section shall only apply to federally owned water storage projects whether authorized under section 4007 or some other authority.

(f) **LIMITATION.**—Nothing in this section affects the ability of landowners or Indian tribes to seek compensation or any other remedy otherwise provided by law.

(g) **SAVINGS CLAUSE.**—No action taken under this section shall directly or indirectly increase the costs to recipients of power marketed by the Western Area Power Administration, nor decrease the value of such power.

#### **SEC. 4009. OTHER WATER SUPPLY PROJECTS.**

(a) **WATER DESALINATION ACT AMENDMENTS.**—Section 4 of the Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104–298) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(B) by inserting after paragraph (1) the following:

“(1) **PROJECTS.**—

“(A) **IN GENERAL.**—Subject to the requirements of this subsection, the Secretary of the Interior may participate in an eligible desalination project in an amount equal to not more than 25 percent of the total cost of the eligible desalination project.

“(B) **ELIGIBLE DESALINATION PROJECT.**—The term ‘eligible desalination project’ means any project in a Reclamation State, that—

“(i) involves an ocean or brackish water desalination facility either constructed, operated and maintained; or sponsored by any State, department of a State, subdivision of a State or public agency organized pursuant to a State law; and

“(ii) provides a Federal benefit in accordance with the reclamation laws (including regulations).

“(C) **STATE ROLE.**—Participation by the Secretary of the Interior in an eligible desalination project under this subsection shall not occur unless—

“(i) the project is included in a state-approved plan or federal participation has been requested by the Governor of the State in which the eligible desalination project is located; and

“(ii) the State or local sponsor determines, and the Secretary of the Interior concurs, that—

“(I) the eligible desalination project is technically and financially feasible and provides a Federal benefit in accordance with the reclamation laws;

“(II) sufficient non-Federal funding is available to complete the eligible desalination project; and

“(III) the eligible desalination project sponsors are financially solvent; and

“(iii) the Secretary of the Interior submits to Congress a written notification of these determinations within 30 days of making such determinations.

“(D) ENVIRONMENTAL LAWS.—When participating in an eligible desalination project under this subsection, the Secretary shall comply with all applicable environmental laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(E) INFORMATION.—When participating in an eligible desalination project under this subsection, the Secretary of the Interior—

“(i) may rely on reports prepared by the sponsor of the eligible desalination project, including feasibility (or equivalent) studies, environmental analyses, and other pertinent reports and analyses; but

“(ii) shall retain responsibility for making the independent determinations described in subparagraph (C).

“(F) AUTHORIZATION OF APPROPRIATIONS.—

“(i) \$30,000,000 of funding is authorized to remain available until expended; and

“(ii) Projects can only receive funding if enacted appropriations legislation designates funding to them by name, after the Secretary recommends specific projects for funding pursuant to this subsection and transmits such recommendations to the appropriate committees of Congress.”.

(c) AUTHORIZATION OF NEW WATER RECYCLING AND REUSE PROJECTS.—Section 1602 of the Reclamation Wastewater and Groundwater Study and Facilities Act (title XVI of Public Law 102–575; 43 U.S.C. 390h et. seq.) is amended by adding at the end the following new subsections:

“(e) AUTHORIZATION OF NEW WATER RECYCLING AND REUSE PROJECTS.—

“(1) SUBMISSION TO THE SECRETARY.—

“(A) IN GENERAL.—Non-Federal interests may submit proposals for projects eligible to be authorized pursuant to this section in the form of completed feasibility studies to the Secretary.

“(B) ELIGIBLE PROJECTS.—A project shall be considered eligible for consideration under this section if the project reclaims and reuses—

“(i) municipal, industrial, domestic, or agricultural wastewater; or

“(ii) impaired ground or surface waters.

“(C) GUIDELINES.—Within 60 days of the enactment of this Act the Secretary shall issue guidelines for feasibility studies for water recycling and reuse projects to provide sufficient information for the formulation of the studies.

“(2) REVIEW BY THE SECRETARY.—The Secretary shall review each feasibility study received under paragraph (1)(A) for the purpose of—

“(A) determining whether the study, and the process under which the study was developed, each comply with Federal laws and regulations applicable to feasibility studies of water recycling and reuse projects; and

“(B) the project is technically and financially feasible and provides a Federal benefit in accordance with the reclamation laws.

“(3) SUBMISSION TO CONGRESS.—Not later than 180 days after the date of receipt of a feasibility study received under paragraph (1)(A), the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report that describes—

“(A) the results of the Secretary’s review of the study under paragraph (2), including a determination of whether the project is feasible;

“(B) any recommendations the Secretary may have concerning the plan or design of the project; and

“(C) any conditions the Secretary may require for construction of the project.

“(4) ELIGIBILITY FOR FUNDING.—The non-Federal project sponsor of any project determined by the Secretary to be feasible under paragraph (3)(A) shall be eligible to apply to the Secretary for funding for the Federal share of the costs of planning, designing and constructing the project pursuant to subsection (f).

“(f) COMPETITIVE GRANT PROGRAM FOR THE FUNDING OF WATER RECYCLING AND REUSE PROJECTS.—

“(1) ESTABLISHMENT.—The Secretary shall establish a competitive grant program under which the non-Federal project sponsor of any project determined by the Secretary to be feasible under subsection (e)(3)(A) shall be eligible to apply for funding for the planning, design, and construction of the project, subject to subsection (g)(2).

“(2) PRIORITY.—When funding projects under paragraph (1), the Secretary shall give funding priority to projects that meet one or more of the criteria listed in paragraph (3) and are located in an area that—

“(A) has been identified by the United States Drought Monitor as experiencing severe, extreme, or exceptional drought at any time in the 4-year period before such funds are made available; or

“(B) was designated as a disaster area by a State during the 4-year period before such funds are made available.

“(3) CRITERIA.—The project criteria referred to in paragraph (2) are the following:

“(A) Projects that are likely to provide a more reliable water supply for States and local governments.

“(B) Projects that are likely to increase the water management flexibility and reduce impacts on environmental resources from projects operated by Federal and State agencies.

“(C) Projects that are regional in nature.

“(D) Projects with multiple stakeholders.

“(E) Projects that provide multiple benefits, including water supply reliability, eco-system benefits, groundwater management and enhancements, and water quality improvements.

“(g) AUTHORIZATION OF APPROPRIATIONS.—

“(1) There is authorized to be appropriated to the Secretary of the Interior an additional \$50,000,000 to remain available until expended.

“(2) Projects can only receive funding if enacted appropriations legislation designates funding to them by name, after the Secretary recommends specific projects for funding pursuant to subsection (f) and transmits such recommendations to the appropriate committees of Congress.”.

42 USC 10364  
note.

(d) FUNDING.—Section 9504 of the Omnibus Public Land Management Act of 2009 (42 U.S.C. 10364) is amended in subsection (e) by striking “\$350,000,000” and inserting “\$450,000,000” on the condition that of that amount, \$50,000,000 of it is used to carry out section 206 of the Energy and Water Development and Related Agencies Appropriation Act, 2015 (43 U.S.C. 620 note; Public Law 113–235).

**SEC. 4010. ACTIONS TO BENEFIT THREATENED AND ENDANGERED SPECIES AND OTHER WILDLIFE.**

(a) INCREASED REAL-TIME MONITORING AND UPDATED SCIENCE.—

(1) SMELT BIOLOGICAL OPINION.—The Director shall use the best scientific and commercial data available to implement, continuously evaluate, and refine or amend, as appropriate, the reasonable and prudent alternative described in the smelt biological opinion.

(2) INCREASED MONITORING TO INFORM REAL-TIME OPERATIONS.—

(A) IN GENERAL.—The Secretary of the Interior shall conduct additional surveys, on an annual basis at the appropriate time of year based on environmental conditions, in collaboration with interested stakeholders regarding the science of the Delta in general, and to enhance real time decisionmaking in particular, working in close coordination with relevant State authorities.

(B) REQUIREMENTS.—In carrying out this subsection, the Secretary of the Interior shall use—

(i) the most appropriate and accurate survey methods available for the detection of Delta smelt to determine the extent to which adult Delta smelt are distributed in relation to certain levels of turbidity or other environmental factors that may influence salvage rate;

(ii) results from appropriate surveys for the detection of Delta smelt to determine how the Central Valley Project and State Water Project may be operated more

efficiently to maximize fish and water supply benefits; and

(iii) science-based recommendations developed by any of the persons or entities described in paragraph (4)(B) to inform the agencies' real-time decisions.

(C) WINTER MONITORING.—During the period between December 1 and March 31, if suspended sediment loads enter the Delta from the Sacramento River, and the suspended sediment loads appear likely to raise turbidity levels in the Old River north of the export pumps from values below 12 Nephelometric Turbidity Units (NTUs) to values above 12 NTUs, the Secretary of the Interior shall—

(i) conduct daily monitoring using appropriate survey methods at locations including the vicinity of Station 902 to determine the extent to which adult Delta smelt are moving with turbidity toward the export pumps; and

(ii) use results from the monitoring under subparagraph (A) to determine how increased trawling can inform daily real-time Central Valley Project and State Water Project operations to maximize fish and water supply benefits.

(3) PERIODIC REVIEW OF MONITORING.—Not later than 1 year after the date of enactment of this subtitle, the Secretary of the Interior shall—

(A) evaluate whether the monitoring program under paragraph (2), combined with other monitoring programs for the Delta, is providing sufficient data to inform Central Valley Project and State Water Project operations to maximize the water supply for fish and water supply benefits; and

(B) determine whether the monitoring efforts should be changed in the short or long term to provide more useful data.

(4) DELTA SMELT DISTRIBUTION STUDY.—

(A) IN GENERAL.—Not later than March 15, 2021, the Secretary of the Interior shall—

(i) complete studies, to be initiated by not later than 90 days after the date of enactment of this subtitle, designed—

(I) to understand the location and determine the abundance and distribution of Delta smelt throughout the range of the Delta smelt; and

(II) to determine potential methods to minimize the effects of Central Valley Project and State Water Project operations on the Delta smelt;

(ii) based on the best available science, if appropriate and practicable, implement new targeted sampling and monitoring of Delta smelt in order to maximize fish and water supply benefits prior to completion of the study under clause (i);

(iii) to the maximum extent practicable, use new technologies to allow for better tracking of Delta smelt, such as acoustic tagging, optical recognition during trawls, and fish detection using residual deoxyribonucleic acid (DNA); and

- (iv) if new sampling and monitoring is not implemented under clause (ii), provide a detailed explanation of the determination of the Secretary of the Interior that no change is warranted.
  - (B) CONSULTATION.—In determining the scope of the studies under this subsection, the Secretary of the Interior shall consult with—
    - (i) Central Valley Project and State Water Project water contractors and public water agencies;
    - (ii) other public water agencies;
    - (iii) the California Department of Fish and Wildlife and the California Department of Water Resources; and
    - (iv) nongovernmental organizations.
- (b) ACTIONS TO BENEFIT ENDANGERED FISH POPULATIONS.—
  - (1) FINDINGS.—Congress finds that—
    - (A) minimizing or eliminating stressors to fish populations and their habitat in an efficient and structured manner is a key aspect of a fish recovery strategy;
    - (B) functioning, diverse, and interconnected habitats are necessary for a species to be viable; and
    - (C) providing for increased fish habitat may not only allow for a more robust fish recovery, but also reduce impacts to water supplies.
  - (2) ACTIONS FOR BENEFIT OF ENDANGERED SPECIES.—There is authorized to be appropriated the following amounts:
    - (A) \$15,000,000 for the Secretary of Commerce, through the Administrator of the National Oceanic and Atmospheric Administration, to carry out the following activities in accordance with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.):
      - (i) Gravel and rearing area additions and habitat restoration to the Sacramento River to benefit Chinook salmon and steelhead trout.
      - (ii) Scientifically improved and increased real-time monitoring to inform real-time operations of Shasta and related Central Valley Project facilities, and alternative methods, models, and equipment to improve temperature modeling and related forecasted information for purposes of predicting impacts to salmon and salmon habitat as a result of water management at Shasta.
      - (iii) Methods to improve the Delta salvage systems, including alternative methods to redeposit salvaged salmon smolts and other fish from the Delta in a manner that reduces predation losses.
    - (B) \$3,000,000 for the Secretary of the Interior to conduct the Delta smelt distribution study referenced in subsection (a)(4).
  - (3) COMMENCEMENT.—If the Administrator of the National Oceanic and Atmospheric Administration determines that a proposed activity is feasible and beneficial for protecting and recovering a fish population, the Administrator shall commence implementation of the activity by not later than 1 year after the date of enactment of this subtitle.
  - (4) CONSULTATION.—The Administrator shall take such steps as are necessary to partner with, and coordinate the

efforts of, the Department of the Interior, the Department of Commerce, and other relevant Federal departments and agencies to ensure that all Federal reviews, analyses, opinions, statements, permits, licenses, and other approvals or decisions required under Federal law are completed on an expeditious basis, consistent with Federal law.

(5) CONSERVATION FISH HATCHERIES.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this subtitle, the Secretaries of the Interior and Commerce, in coordination with the Director of the California Department of Fish and Wildlife, shall develop and implement as necessary the expanded use of conservation hatchery programs to enhance, supplement, and rebuild Delta smelt and Endangered Species Act-listed fish species under the smelt and salmonid biological opinions.

(B) REQUIREMENTS.—The conservation hatchery programs established under paragraph (1) and the associated hatchery and genetic management plans shall be designed—

(i) to benefit, enhance, support, and otherwise recover naturally spawning fish species to the point where the measures provided under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) are no longer necessary; and

(ii) to minimize adverse effects to Central Valley Project and State Water Project operations.

(C) PRIORITY; COOPERATIVE AGREEMENTS.—In implementing this section, the Secretaries of the Interior and Commerce—

(i) shall give priority to existing and prospective hatchery programs and facilities within the Delta and the riverine tributaries thereto; and

(ii) may enter into cooperative agreements for the operation of conservation hatchery programs with States, Indian tribes, and other nongovernmental entities for the benefit, enhancement, and support of naturally spawning fish species.

(6) ACQUISITION OF LAND, WATER, OR INTERESTS FROM WILLING SELLERS FOR ENVIRONMENTAL PURPOSES IN CALIFORNIA.—

(A) IN GENERAL.—The Secretary of the Interior is authorized to acquire by purchase, lease, donation, or otherwise, land, water, or interests in land or water from willing sellers in California—

(i) to benefit listed or candidate species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or the California Endangered Species Act (California Fish and Game Code sections 2050 through 2116);

(ii) to meet requirements of, or otherwise provide water quality benefits under, the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) or the Porter Cologne Water Quality Control Act (division 7 of the California Water Code); or

(iii) for protection and enhancement of the environment, as determined by the Secretary of the Interior.

(B) STATE PARTICIPATION.—In implementing this section, the Secretary of the Interior is authorized to participate with the State of California or otherwise hold such interests identified in subparagraph (A) in joint ownership with the State of California based on a cost share deemed appropriate by the Secretary.

(C) TREATMENT.—Any expenditures under this subsection shall be nonreimbursable and nonreturnable to the United States.

(7) REAUTHORIZATION OF THE FISHERIES RESTORATION AND IRRIGATION MITIGATION ACT OF 2000.—

(A) Section 10(a) of the Fisheries Restoration and Irrigation Mitigation Act of 2000 (16 U.S.C. 777 note; Public Law 106–502) is amended by striking “\$25 million for each of fiscal years 2009 through 2015” and inserting “\$15 million through 2021”; and

(B) Section 2 of the Fisheries Restoration and Irrigation Mitigation Act of 2000 (16 U.S.C. 777 note; Public Law 106–502) is amended by striking “Montana, and Idaho” and inserting “Montana, Idaho, and California”.

(c) ACTIONS TO BENEFIT REFUGES.—

(1) IN GENERAL.—In addition to funding under section 3407 of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4726), there is authorized to be appropriated to the Secretary of the Interior \$2,000,000 for each of fiscal years 2017 through 2021 for the acceleration and completion of water infrastructure and conveyance facilities necessary to achieve full water deliveries to Central Valley wildlife refuges and habitat areas pursuant to section 3406(d) of that Act (Public Law 102–575; 106 Stat. 4722).

(2) COST SHARING.—

(A) FEDERAL SHARE.—The Federal share of the cost of carrying out an activity described in this section shall be not more than 50 percent.

(B) NON-FEDERAL SHARE.—The non-Federal share of the cost of carrying out an activity described in this section—

(i) shall be not less than 50 percent; and

(ii) may be provided in cash or in kind.

(d) NON-FEDERAL PROGRAM TO PROTECT NATIVE ANADROMOUS FISH IN STANISLAUS RIVER.—

(1) DEFINITION OF DISTRICT.—In this section, the term “district” means—

(A) the Oakdale Irrigation District of the State of California; and

(B) the South San Joaquin Irrigation District of the State of California.

(2) ESTABLISHMENT.—The Secretary of Commerce, acting through the Assistant Administrator of the National Marine Fisheries Service, and the districts shall jointly establish and conduct a nonnative predator research and pilot fish removal program to study the effects of removing from the Stanislaus River—

(A) nonnative striped bass, smallmouth bass, largemouth bass, black bass; and

(B) other nonnative predator fish species.



(3) REQUIREMENTS.—The program under this section shall—

(A) be scientifically based, with research questions determined jointly by—

(i) National Marine Fisheries Service scientists; and

(ii) technical experts of the districts;

(B) include methods to quantify by, among other things, evaluating the number of juvenile anadromous fish that migrate past the rotary screw trap located at Caswell—

(i) the number and size of predator fish removed each year; and

(ii) the impact of the removal on—

(I) the overall abundance of predator fish in the Stanislaus River; and

(II) the populations of juvenile anadromous fish in the Stanislaus River;

(C) among other methods, consider using wire fyke trapping, portable resistance board weirs, and boat electrofishing; and

(D) be implemented as quickly as practicable after the date of issuance of all necessary scientific research permits.

(4) MANAGEMENT.—The management of the program shall be the joint responsibility of the Assistant Administrator and the districts, which shall—

(A) work collaboratively to ensure the performance of the program; and

(B) discuss and agree on, among other things—

(i) qualified scientists to lead the program;

(ii) research questions;

(iii) experimental design;

(iv) changes in the structure, management, personnel, techniques, strategy, data collection and access, reporting, and conduct of the program; and

(v) the need for independent peer review.

(5) CONDUCT.—

(A) IN GENERAL.—For each applicable calendar year, the districts, on agreement of the Assistant Administrator, may elect to conduct the program under this section using—

(i) the personnel of the Assistant Administrator or districts;

(ii) qualified private contractors hired by the districts;

(iii) personnel of, on loan to, or otherwise assigned to the National Marine Fisheries Service; or

(iv) a combination of the individuals described in clauses (i) through (iii).

(B) PARTICIPATION BY NATIONAL MARINE FISHERIES SERVICE.—

(i) IN GENERAL.—If the districts elect to conduct the program using district personnel or qualified private contractors hired under clause (i) or (ii) of subparagraph (A), the Assistant Administrator may assign an employee of, on loan to, or otherwise assigned to the National Marine Fisheries Service, to be present

for all activities performed in the field to ensure compliance with paragraph (4).

(ii) COSTS.—The districts shall pay the cost of participation by the employee under clause (i), in accordance with paragraph (6).

(C) TIMING OF ELECTION.—The districts shall notify the Assistant Administrator of an election under subparagraph (A) by not later than October 15 of the calendar year preceding the calendar year for which the election applies.

(6) FUNDING.—

(A) IN GENERAL.—The districts shall be responsible for 100 percent of the cost of the program.

(B) CONTRIBUTED FUNDS.—The Secretary of Commerce may accept and use contributions of funds from the districts to carry out activities under the program.

(C) ESTIMATION OF COST.—

(i) IN GENERAL.—Not later than December 1 of each year of the program, the Secretary of Commerce shall submit to the districts an estimate of the cost to be incurred by the National Marine Fisheries Service for the program during the following calendar year, if any, including the cost of any data collection and posting under paragraph (7).

(ii) FAILURE TO FUND.—If an amount equal to the estimate of the Secretary of Commerce is not provided through contributions pursuant to subparagraph (B) before December 31 of that calendar year—

(I) the Secretary shall have no obligation to conduct the program activities otherwise scheduled for the following calendar year until the amount is contributed by the districts; and

(II) the districts may not conduct any aspect of the program until the amount is contributed by the districts.

(D) ACCOUNTING.—

(i) IN GENERAL.—Not later than September 1 of each year, the Secretary of Commerce shall provide to the districts an accounting of the costs incurred by the Secretary for the program during the preceding calendar year.

(ii) EXCESS AMOUNTS.—If the amount contributed by the districts pursuant to subparagraph (B) for a calendar year was greater than the costs incurred by the Secretary of Commerce during that year, the Secretary shall—

(I) apply the excess amounts to the cost of activities to be performed by the Secretary under the program, if any, during the following calendar year; or

(II) if no such activities are to be performed, repay the excess amounts to the districts.

(7) PUBLICATION AND EVALUATION OF DATA.—

(A) IN GENERAL.—All data generated through the program, including by any private consultants, shall be routinely provided to the Assistant Administrator.

(B) INTERNET.—Not later than the 15th day of each month of the program, the Assistant Administrator shall publish on the Internet website of the National Marine Fisheries Service a tabular summary of the raw data collected under the program during the preceding month.

(C) REPORT.—On completion of the program, the Assistant Administrator shall prepare a final report evaluating the effectiveness of the program, including recommendations for future research and removal work.

(8) CONSISTENCY WITH LAW.—

(A) IN GENERAL.—The programs in this section and subsection (e) are found to be consistent with the requirements of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4706).

(B) LIMITATION.—No provision, plan, or definition under that Act, including section 3406(b)(1) of that Act (Public Law 102–575; 106 Stat. 4714), shall be used—

(i) to prohibit the implementation of the programs in this subsection and subsection (e); or

(ii) to prevent the accomplishment of the goals of the programs.

(e) PILOT PROJECTS TO IMPLEMENT CALFED INVASIVE SPECIES PROGRAM.—

(1) IN GENERAL.—Not later than January 1, 2018, the Secretary of the Interior, in collaboration with the Secretary of Commerce, the Director of the California Department of Fish and Wildlife, and other relevant agencies and interested parties, shall establish and carry out pilot projects to implement the invasive species control program under section 103(d)(6)(A)(iv) of Public Law 108–361 (118 Stat. 1690).

(2) REQUIREMENTS.—The pilot projects under this section shall—

(A) seek to reduce invasive aquatic vegetation (such as water hyacinth), predators, and other competitors that contribute to the decline of native listed pelagic and anadromous species that occupy the Sacramento and San Joaquin Rivers and their tributaries and the Delta; and

(B) remove, reduce, or control the effects of species including Asiatic clams, silversides, gobies, Brazilian water weed, largemouth bass, smallmouth bass, striped bass, crappie, bluegill, white and channel catfish, zebra and quagga mussels, and brown bullheads.

(3) EMERGENCY ENVIRONMENTAL REVIEWS.—To expedite environmentally beneficial programs in this subtitle for the conservation of threatened and endangered species, the Secretaries of the Interior and Commerce shall consult with the Council on Environmental Quality in accordance with section 1506.11 of title 40, Code of Federal Regulations (or successor regulations), to develop alternative arrangements to comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for those programs.

(f) COLLABORATIVE PROCESSES.—Notwithstanding the Federal Advisory Committee Act (5 U.S.C. App.) and applicable Federal acquisitions and contracting authorities, the Secretaries of the Interior and Commerce may use the collaborative processes under the Collaborative Science Adaptive Management Program to enter

into contracts with specific individuals or organizations directly or in conjunction with appropriate State agencies.

(g) THE “SAVE OUR SALMON ACT”.—

(1) TREATMENT OF STRIPED BASS.—

(A) ANADROMOUS FISH.—Section 3403(a) of the Central Valley Project Improvement Act (title XXXIV of Public Law 102-575) is amended by striking “striped bass,” after “stocks of salmon (including steelhead),”.

(B) FISH AND WILDLIFE RESTORATION ACTIVITIES.—Section 3406(b) of the Central Valley Project Improvement Act (title XXXIV of Public Law 102-575) is amended by—

(i) striking paragraphs (14) and (18);

(ii) redesignating paragraphs (15) through (17) as paragraphs (14) through (16), respectively; and

(iii) redesignating paragraphs (19) through (23) as paragraphs (17) through (21), respectively.

(2) CONFORMING CHANGES.—Section 3407(a) of the Central Valley Project Improvement Act (title XXXIV of Public Law 102-575) is amended by striking “(10)–(18), and (20)–(22)” and inserting “(10)–(16), and (18)–(20)”.

#### SEC. 4011. OFFSETS AND WATER STORAGE ACCOUNT.

(a) PREPAYMENT OF CERTAIN REPAYMENT CONTRACTS BETWEEN THE UNITED STATES AND CONTRACTORS OF FEDERALLY DEVELOPED WATER SUPPLIES.—

(1) CONVERSION AND PREPAYMENT OF CONTRACTS.—Upon request of the contractor, the Secretary of the Interior shall convert any water service contract in effect on the date of enactment of this subtitle and between the United States and a water users’ association to allow for prepayment of the repayment contract pursuant to paragraph (2) under mutually agreeable terms and conditions. The manner of conversion under this paragraph shall be as follows:

(A) Water service contracts that were entered into under section (e) of the Act of August 4, 1939 (53 Stat. 1196), to be converted under this section shall be converted to repayment contracts under section 9(d) of that Act (53 Stat. 1195).

(B) Water service contracts that were entered under subsection (c)(2) of section 9 of the Act of August 4, 1939 (53 Stat. 1194), to be converted under this section shall be converted to a contract under subsection (c)(1) of section 9 of that Act (53 Stat. 1195).

(2) PREPAYMENT.—Except for those repayment contracts under which the contractor has previously negotiated for prepayment, all repayment contracts under section 9(d) of that Act (53 Stat. 1195) in effect on the date of enactment of this subtitle at the request of the contractor, and all contracts converted pursuant to paragraph (1)(A) shall—

(A) provide for the repayment, either in lump sum or by accelerated prepayment, of the remaining construction costs identified in water project specific irrigation rate repayment schedules, as adjusted to reflect payment not reflected in such schedules, and properly assignable for ultimate return by the contractor, or if made in approximately equal installments, no later than 3 years after the effective date of the repayment contract, such amount

to be discounted by  $\frac{1}{2}$  the Treasury rate. An estimate of the remaining construction costs, as adjusted, shall be provided by the Secretary to the contractor no later than 90 days following receipt of request of the contractor;

(B) require that construction costs or other capitalized costs incurred after the effective date of the contract or not reflected in the rate schedule referenced in subparagraph (A), and properly assignable to such contractor shall be repaid in not more than 5 years after notification of the allocation if such amount is a result of a collective annual allocation of capital costs to the contractors exercising contract conversion under this subsection of less than \$5,000,000. If such amount is \$5,000,000 or greater, such cost shall be repaid as provided by applicable reclamation law;

(C) provide that power revenues will not be available to aid in repayment of construction costs allocated to irrigation under the contract; and

(D) continue so long as the contractor pays applicable charges, consistent with section 9(d) of the Act of August 4, 1939 (53 Stat. 1195), and applicable law.

(3) CONTRACT REQUIREMENTS.—Except for those repayment contracts under which the contractor has previously negotiated for prepayment, the following shall apply with regard to all repayment contracts under subsection (c)(1) of section 9 of that Act (53 Stat. 1195) in effect on the date of enactment of this subtitle at the request of the contractor, and all contracts converted pursuant to paragraph (1)(B):

(A) Provide for the repayment in lump sum of the remaining construction costs identified in water project specific municipal and industrial rate repayment schedules, as adjusted to reflect payments not reflected in such schedules, and properly assignable for ultimate return by the contractor. An estimate of the remaining construction costs, as adjusted, shall be provided by the Secretary to the contractor no later than 90 days after receipt of the request of contractor.

(B) The contract shall require that construction costs or other capitalized costs incurred after the effective date of the contract or not reflected in the rate schedule referenced in subparagraph (A), and properly assignable to such contractor, shall be repaid in not more than 5 years after notification of the allocation if such amount is a result of a collective annual allocation of capital costs to the contractors exercising contract conversion under this subsection of less than \$5,000,000. If such amount is \$5,000,000 or greater, such cost shall be repaid as provided by applicable reclamation law.

(C) Continue so long as the contractor pays applicable charges, consistent with section 9(c)(1) of the Act of August 4, 1939 (53 Stat. 1195), and applicable law.

(4) CONDITIONS.—All contracts entered into pursuant to paragraphs (1), (2), and (3) shall—

(A) not be adjusted on the basis of the type of prepayment financing used by the water users' association;

(B) conform to any other agreements, such as applicable settlement agreements and new constructed appurtenant facilities; and

(C) not modify other water service, repayment, exchange and transfer contractual rights between the water users' association, and the Bureau of Reclamation, or any rights, obligations, or relationships of the water users' association and their landowners as provided under State law.

(b) ACCOUNTING.—The amounts paid pursuant to subsection (a) shall be subject to adjustment following a final cost allocation by the Secretary of the Interior. In the event that the final cost allocation indicates that the costs properly assignable to the contractor are greater than what has been paid by the contractor, the contractor shall be obligated to pay the remaining allocated costs. The term of such additional repayment contract shall be not less than one year and not more than 10 years, however, mutually agreeable provisions regarding the rate of repayment of such amount may be developed by the parties. In the event that the final cost allocation indicates that the costs properly assignable to the contractor are less than what the contractor has paid, the Secretary shall credit such overpayment as an offset against any outstanding or future obligation of the contractor, with the exception of Restoration Fund charges pursuant to section 3407(d) of Public Law 102-575.

(c) APPLICABILITY OF CERTAIN PROVISIONS.—

(1) EFFECT OF EXISTING LAW.—Upon a contractor's compliance with and discharge of the obligation of repayment of the construction costs pursuant to a contract entered into pursuant to subsection (a)(2)(A), subsections (a) and (b) of section 213 of the Reclamation Reform Act of 1982 (96 Stat. 1269) shall apply to affected lands.

(2) EFFECT OF OTHER OBLIGATIONS.—The obligation of a contractor to repay construction costs or other capitalized costs described in subsection (a)(2)(B), (a)(3)(B), or (b) shall not affect a contractor's status as having repaid all of the construction costs assignable to the contractor or the applicability of subsections (a) and (b) of section 213 of the Reclamation Reform Act of 1982 (96 Stat. 1269) once the amount required to be paid by the contractor under the repayment contract entered into pursuant to subsection (a)(2)(A) has been paid.

(d) EFFECT ON EXISTING LAW NOT ALTERED.—Implementation of the provisions of this subtitle shall not alter—

(1) the repayment obligation of any water service or repayment contractor receiving water from the same water project, or shift any costs that would otherwise have been properly assignable to the water users' association identified in subsections (a)(1), (a)(2), and (a)(3) absent this section, including operation and maintenance costs, construction costs, or other capitalized costs incurred after the date of the enactment of this subtitle, or to other contractors; and

(2) specific requirements for the disposition of amounts received as repayments by the Secretary under the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.);

(3) the priority of a water service or repayment contractor to receive water; or

(4) except as expressly provided in this section, any obligations under the reclamation law, including the continuation of Restoration Fund charges pursuant to section 3407(d) (Public Law 102–575), of the water service and repayment contractors making prepayments pursuant to this section.

(e) WATER STORAGE ENHANCEMENT PROGRAM.—

(1) IN GENERAL.—Except as provided in subsection (d)(2), \$335,000,000 out of receipts generated from prepayment of contracts under this section beyond amounts necessary to cover the amount of receipts forgone from scheduled payments under current law for the 10-year period following the date of enactment of this Act shall be directed to the Reclamation Water Storage Account under paragraph (2).

(2) STORAGE ACCOUNT.—The Secretary shall allocate amounts collected under paragraph (1) into the “Reclamation Storage Account” to fund the construction of water storage. The Secretary may also enter into cooperative agreements with water users’ associations for the construction of water storage and amounts within the Storage Account may be used to fund such construction. Water storage projects that are otherwise not federally authorized shall not be considered Federal facilities as a result of any amounts allocated from the Storage Account for part or all of such facilities.

(3) REPAYMENT.—Amounts used for water storage construction from the Account shall be fully reimbursed to the Account consistent with the requirements under Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)) except that all funds reimbursed shall be deposited in the Account established under paragraph (2).

(4) AVAILABILITY OF AMOUNTS.—Amounts deposited in the Account under this subsection shall—

(A) be made available in accordance with this section, subject to appropriation; and

(B) be in addition to amounts appropriated for such purposes under any other provision of law.

(f) DEFINITIONS.—For the purposes of this subtitle, the following definitions apply:

(1) ACCOUNT.—The term “Account” means the Reclamation Water Storage Account established under subsection (e)(2).

(2) CONSTRUCTION.—The term “construction” means the designing, materials engineering and testing, surveying, and building of water storage including additions to existing water storage and construction of new water storage facilities, exclusive of any Federal statutory or regulatory obligations relating to any permit, review, approval, or other such requirement.

(3) WATER STORAGE.—The term “water storage” means any federally owned facility under the jurisdiction of the Bureau of Reclamation or any non-Federal facility used for the storage and supply of water resources.

(4) TREASURY RATE.—The term “Treasury rate” means the 20- year Constant Maturity Treasury (CMT) rate published by the United States Department of the Treasury existing on the effective date of the contract.

(5) WATER USERS’ ASSOCIATION.—The term “water users’ association” means—

(A) an entity organized and recognized under State laws that is eligible to enter into contracts with Reclamation to receive contract water for delivery to end users of the water and to pay applicable charges; and

(B) includes a variety of entities with different names and differing functions, such as associations, conservancy districts, irrigation districts, municipalities, and water project contract units.

43 USC 390b  
note.

**SEC. 4012. SAVINGS LANGUAGE.**

(a) IN GENERAL.—This subtitle shall not be interpreted or implemented in a manner that—

(1) preempts or modifies any obligation of the United States to act in conformance with applicable State law, including applicable State water law;

(2) affects or modifies any obligation under the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4706), except for the savings provisions for the Stanislaus River predator management program expressly established by section 11(d) and provisions in section 11(g);

(3) overrides, modifies, or amends the applicability of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or the application of the smelt and salmonid biological opinions to the operation of the Central Valley Project or the State Water Project;

(4) would cause additional adverse effects on listed fish species beyond the range of effects anticipated to occur to the listed fish species for the duration of the applicable biological opinion, using the best scientific and commercial data available; or

(5) overrides, modifies, or amends any obligation of the Pacific Fisheries Management Council, required by the Magnuson Stevens Act or the Endangered Species Act of 1973, to manage fisheries off the coast of California, Oregon, or Washington.

(b) SUCCESSOR BIOLOGICAL OPINIONS.—

(1) IN GENERAL.—The Secretaries of the Interior and Commerce shall apply this Act to any successor biological opinions to the smelt or salmonid biological opinions only to the extent that the Secretaries determine is consistent with—

(A) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), its implementing regulations, and the successor biological opinions; and

(B) subsection (a)(4).

(2) LIMITATION.—Nothing in this Act shall restrict the Secretaries of the Interior and Commerce from completing consultation on successor biological opinions and through those successor biological opinions implementing whatever adjustments in operations or other activities as may be required by the Endangered Species Act of 1973 and its implementing regulations.

(c) SEVERABILITY.—If any provision of this subtitle, or any application of such provision to any person or circumstance, is held to be inconsistent with any law or the biological opinions, the remainder of this subtitle and the application of this subtitle to any other person or circumstance shall not be affected.



**SEC. 4013. DURATION.**43 USC 390b  
note.

This subtitle shall expire on the date that is 5 years after the date of its enactment, with the exception of—

- (1) section 4004, which shall expire 10 years after the date of its enactment; and
- (2) projects under construction in sections 4007, 4009(a), and 4009(c).

**SEC. 4014. DEFINITIONS.**43 USC 390b  
note.

In this subtitle:

(1) **ASSISTANT ADMINISTRATOR.**—The term “Assistant Administrator” means the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration.

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

(3) **COMMISSIONER.**—The term “Commissioner” means the Commissioner of Reclamation.

(4) **DELTA.**—The term “Delta” means the Sacramento-San Joaquin Delta and the Suisun Marsh (as defined in section 12220 of the California Water Code and section 29101 of the California Public Resources Code (as in effect on the date of enactment of this Act)).

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

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

(7) **LISTED FISH SPECIES.**—The term “listed fish species” means—

(A) any natural origin steelhead, natural origin genetic spring run Chinook, or genetic winter run Chinook salmon (including any hatchery steelhead or salmon population within the evolutionary significant unit or a distinct population segment); and

(B) Delta smelt.

(8) **RECLAMATION STATE.**—The term “Reclamation State” means any of the States of—

- (A) Arizona;
- (B) California;
- (C) Colorado;
- (D) Idaho;
- (E) Kansas;
- (F) Montana;
- (G) Nebraska;
- (H) Nevada;
- (I) New Mexico;
- (J) North Dakota;
- (K) Oklahoma;
- (L) Oregon;
- (M) South Dakota;
- (N) Texas;
- (O) Utah;
- (P) Washington; and
- (Q) Wyoming.

(9) **SALMONID BIOLOGICAL OPINION.**—

(A) IN GENERAL.—The term “salmonid biological opinion” means the biological and conference opinion of the National Marine Fisheries Service dated June 4, 2009, regarding the long-term operation of the Central Valley Project and the State Water Project, and successor biological opinions.

(B) INCLUSIONS.—The term “salmonid biological opinion” includes the operative incidental take statement of the opinion described in subparagraph (A).

(10) SMELT BIOLOGICAL OPINION.—

(A) IN GENERAL.—The term “smelt biological opinion” means the biological opinion dated December 15, 2008, regarding the coordinated operation of the Central Valley Project and the State Water Project, and successor biological opinions.

(B) INCLUSIONS.—The term “smelt biological opinion” includes the operative incidental take statement of the opinion described in subparagraph (A).

(11) STATE WATER PROJECT.—The term “State Water Project” means the water project described in chapter 5 of part 3 of division 6 of the California Water Code (sections 11550 et seq.) (as in effect on the date of enactment of this Act) and operated by the California Department of Water Resources.

## TITLE IV—OTHER MATTERS

### SEC. 5001. CONGRESSIONAL NOTIFICATION REQUIREMENTS.

(a) IN GENERAL.—Subchapter I of chapter 3 of title 49, United States Code, is amended by adding at the end the following:

49 USC 311.

#### “§ 311. Congressional notification requirements

“(a) IN GENERAL.—Except as provided in subsection (b) or as expressly provided in another provision of law, the Secretary of Transportation shall provide to the appropriate committees of Congress notice of an announcement concerning a covered project at least 3 full business days before the announcement is made by the Department.

“(b) EMERGENCY PROGRAM.—With respect to an allocation of funds under section 125 of title 23, the Secretary shall provide to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate notice of the allocation—

“(1) at least 3 full business days before the issuance of the allocation; or

“(2) concurrently with the issuance of the allocation, if the allocation is made using the quick release process of the Department (or any successor process).

“(c) DEFINITIONS.—In this section, the following definitions apply:

“(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term ‘appropriate committees of Congress’ means—

“(A) the Committee on Transportation and Infrastructure of the House of Representatives; and

“(B) the Committee on Environment and Public Works, the Committee on Commerce, Science, and Transportation,

and the Committee on Banking, Housing, and Urban Affairs of the Senate.

“(2) COVERED PROJECT.—The term ‘covered project’ means a project competitively selected by the Department to receive a discretionary grant award, letter of intent, loan commitment, loan guarantee commitment, or line of credit commitment in an amount equal to or greater than \$750,000.

“(3) DEPARTMENT.—The term ‘Department’ means the Department of Transportation, including the modal administrations of the Department.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 3 of title 49, United States Code, is amended by inserting after the item relating to section 310 the following:

49 USC  
prec. 301.

“311. Congressional notification requirements.”.

**SEC. 5002. REAUTHORIZATION OF DENALI COMMISSION.**

(a) ADMINISTRATION.—Section 303 of the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105–277) is amended—

(1) in subsection (c)—

(A) in the first sentence by striking “The Federal Cochairperson” and inserting the following:

“(1) TERM OF FEDERAL COCHAIRPERSON.—The Federal Cochairperson”;

(B) in the second sentence by striking “All other members” and inserting the following:

“(3) TERM OF ALL OTHER MEMBERS.—All other members”;

(C) in the third sentence by striking “Any vacancy” and inserting the following:

“(4) VACANCIES.—Except as provided in paragraph (2), any vacancy”; and

(D) by inserting before paragraph (3) (as designated by subparagraph (B)) the following:

“(2) INTERIM FEDERAL COCHAIRPERSON.—In the event of a vacancy for any reason in the position of Federal Cochairperson, the Secretary may appoint an Interim Federal Cochairperson, who shall have all the authority of the Federal Cochairperson, to serve until such time as the vacancy in the position of Federal Cochairperson is filled in accordance with subsection (b)(2)).”; and

(2) by adding at the end the following:

“(f) NO FEDERAL EMPLOYEE STATUS.—No member of the Commission, other than the Federal Cochairperson, shall be considered to be a Federal employee for any purpose.

“(g) CONFLICTS OF INTEREST.—

“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), no member of the Commission (referred to in this subsection as a ‘member’) shall participate personally or substantially, through recommendation, the rendering of advice, investigation, or otherwise, in any proceeding, application, request for a ruling or other determination, contract claim, controversy, or other matter in which, to the knowledge of the member, 1 or more of the following has a direct financial interest:

“(A) The member.

“(B) The spouse, minor child, or partner of the member.

“(C) An organization described in subparagraph (B), (C), (D), (E), or (F) of subsection (b)(1) for which the member

is serving as an officer, director, trustee, partner, or employee.

“(D) Any individual, person, or organization with which the member is negotiating or has any arrangement concerning prospective employment.

“(2) DISCLOSURE.—Paragraph (1) shall not apply if the member—

“(A) immediately advises the designated agency ethics official for the Commission of the nature and circumstances of the matter presenting a potential conflict of interest;

“(B) makes full disclosure of the financial interest; and

“(C) before the proceeding concerning the matter presenting the conflict of interest, receives a written determination by the designated agency ethics official for the Commission that the interest is not so substantial as to be likely to affect the integrity of the services that the Commission may expect from the member. The written determination shall specify the rationale and any evidence or support for the decision, identify steps, if any, that should be taken to mitigate any conflict of interest, and be available to the public.

“(3) ANNUAL DISCLOSURES.—Once each calendar year, each member shall make full disclosure of financial interests, in a manner to be determined by the designated agency ethics official for the Commission.

“(4) TRAINING.—Once each calendar year, each member shall undergo disclosure of financial interests training, as prescribed by the designated agency ethics official for the Commission.

“(5) CLARIFICATION.—A member of the Commission may continue to participate personally or substantially, through decision, approval, or disapproval on the focus of applications to be considered but not on individual applications where a conflict of interest exists.

“(6) VIOLATION.—Any person that violates this subsection shall be fined not more than \$10,000, imprisoned for not more than 2 years, or both.”.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Section 310 of the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105–277) (as redesignated by section 1960(1) of SAFETEA–LU (Public Law 109–59; 119 Stat. 1516)) is amended, in subsection (a), by striking “under section 4 under this Act” and all that follows through “2008” and inserting “under section 304, \$15,000,000 for each of fiscal years 2017 through 2021.”.

(2) CLERICAL AMENDMENT.—Section 310 of the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105–277) (as redesignated by section 1960(1) of SAFETEA–LU (Public Law 109–59; 119 Stat. 1516)) is redesignated as section 312.

#### **SEC. 5003. RECREATIONAL ACCESS FOR FLOATING CABINS AT TVA RESERVOIRS.**

The Tennessee Valley Authority Act of 1933 is amended by inserting after section 9a (16 U.S.C. 831h-1) the following:

**“SEC. 9b. RECREATIONAL ACCESS.**

16 USC 831h-3.

“(a) **DEFINITION OF FLOATING CABIN.**—In this section, the term ‘floating cabin’ means a watercraft or other floating structure—

“(1) primarily designed and used for human habitation or occupation; and

“(2) not primarily designed or used for navigation or transportation on water.

“(b) **RECREATIONAL ACCESS.**—The Board may allow the use of a floating cabin if—

“(1) the floating cabin is maintained by the owner to reasonable health, safety, and environmental standards, as required by the Board;

“(2) the Corporation has authorized the use of recreational vessels on the waters; and

“(3) the floating cabin was located on waters under the jurisdiction of the Corporation as of the date of enactment of this section.

“(c) **FEES.**—The Board may levy fees on the owner of a floating cabin on waters under the jurisdiction of the Corporation for the purpose of ensuring compliance with subsection (b) if the fees are necessary and reasonable for such purpose.

“(d) **CONTINUED RECREATIONAL USE.**—

“(1) **IN GENERAL.**—With respect to a floating cabin located on waters under the jurisdiction of the Corporation on the date of enactment of this section, the Board—

“(A) may not require the removal of the floating cabin—

“(i) in the case of a floating cabin that was granted a permit by the Corporation before the date of enactment of this section, for a period of 15 years beginning on such date of enactment; and

“(ii) in the case of a floating cabin not granted a permit by the Corporation before the date of enactment of this section, for a period of 5 years beginning on such date of enactment; and

“(B) shall approve and allow the use of the floating cabin on waters under the jurisdiction of the Corporation at such time and for such duration as—

“(i) the floating cabin meets the requirements of subsection (b); and

“(ii) the owner of the floating cabin has paid any fee assessed pursuant to subsection (c).

“(2) **SAVINGS PROVISIONS.**—

“(A) Nothing in this subsection restricts the ability of the Corporation to enforce reasonable health, safety, or environmental standards.

“(B) This section applies only to floating cabins located on waters under the jurisdiction of the Corporation.

“(e) **NEW CONSTRUCTION.**—The Corporation may establish regulations to prevent the construction of new floating cabins.”.

**SEC. 5004. GOLD KING MINE SPILL RECOVERY.**

(a) **DEFINITIONS.**—In this section:

(1) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) **CLAIMANT.**—The term “claimant” means a State, Indian tribe, or local government that submits a claim under subsection (c).

(3) **GOLD KING MINE RELEASE.**—The term “Gold King Mine release” means the discharge on August 5, 2015, of approximately 3,000,000 gallons of contaminated water from the Gold King Mine north of Silverton, Colorado, into Cement Creek that occurred while contractors of the Environmental Protection Agency were conducting an investigation of the Gold King Mine to assess mine conditions.

(4) **NATIONAL CONTINGENCY PLAN.**—The term “National Contingency Plan” means the National Contingency Plan prepared and published under part 300 of title 40, Code of Federal Regulations (or successor regulations).

(5) **RESPONSE.**—The term “response” has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that the Administrator should receive and process, as expeditiously as possible, claims under chapter 171 of title 28, United States Code (commonly known as the “Federal Tort Claims Act”) for any injury arising out of the Gold King Mine release.

(c) **GOLD KING MINE RELEASE CLAIMS PURSUANT TO COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT.**—

(1) **IN GENERAL.**—The Administrator shall, consistent with the National Contingency Plan, receive and process under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), and pay from appropriations made available to the Administrator to carry out such Act, any claim made by a State, Indian tribe, or local government for eligible response costs relating to the Gold King Mine release.

(2) **ELIGIBLE RESPONSE COSTS.**—

(A) **IN GENERAL.**—Response costs incurred between August 5, 2015, and September 9, 2016, are eligible for payment by the Administrator under this subsection, without prior approval by the Administrator, if the response costs are consistent with the National Contingency Plan.

(B) **PRIOR APPROVAL REQUIRED.**—Response costs incurred after September 9, 2016, are eligible for payment by the Administrator under this subsection if—

(i) the Administrator approves the response costs under section 111(a)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)(2)); and

(ii) the response costs are consistent with the National Contingency Plan.

(3) **TIMING.**—

(A) **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the Administrator shall make a decision on, and pay, any eligible response costs submitted to the Administrator before such date of enactment.

(B) **SUBSEQUENTLY FILED CLAIMS.**—Not later than 90 days after the date on which a claim is submitted to the Administrator, the Administrator shall make a decision on, and pay, any eligible response costs.

(C) DEADLINE.—All claims under this subsection shall be submitted to the Administrator not later than 180 days after the date of enactment of this Act.

(D) NOTIFICATION.—Not later than 30 days after the date on which the Administrator makes a decision under subparagraph (A) or (B), the Administrator shall notify the claimant of the decision.

(d) WATER QUALITY PROGRAM.—

(1) IN GENERAL.—In response to the Gold King Mine release, the Administrator, in conjunction with affected States, Indian tribes, and local governments, shall, subject to the availability of appropriations, develop and implement a program for long-term water quality monitoring of rivers contaminated by the Gold King Mine release.

(2) REQUIREMENTS.—In carrying out the program described in paragraph (1), the Administrator, in conjunction with affected States, Indian tribes, and local governments, shall—

(A) collect water quality samples and sediment data;

(B) provide the public with a means of viewing the water quality sample results and sediment data referred to in subparagraph (A) by, at a minimum, posting the information on the website of the Administrator;

(C) take any other reasonable measure necessary to assist affected States, Indian tribes, and local governments with long-term water monitoring; and

(D) carry out additional program activities related to long-term water quality monitoring that the Administrator determines to be necessary.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator \$4,000,000.00 for each of fiscal years 2017 through 2021 to carry out this subsection, including the reimbursement of affected States, Indian tribes, and local governments for the costs of long-term water quality monitoring of any river contaminated by the Gold King Mine release.

(e) EXISTING STATE AND TRIBAL LAW.—Nothing in this section affects the jurisdiction or authority of any department, agency, or officer of any State government or any Indian tribe.

(f) SAVINGS CLAUSE.—Nothing in this section affects any right of any State, Indian tribe, or other person to bring a claim against the United States for response costs or natural resources damages pursuant to section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607).

**SEC. 5005. GREAT LAKES RESTORATION INITIATIVE.**

Section 118(c)(7) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)(7)) is amended—

(1) by striking subparagraphs (B) and (C) and inserting the following:

“(B) FOCUS AREAS.—In carrying out the Initiative, the Administrator shall prioritize programs and projects, to be carried out in coordination with non-Federal partners, that address the priority areas described in the Initiative Action Plan, including—

“(i) the remediation of toxic substances and areas of concern;

“(ii) the prevention and control of invasive species and the impacts of invasive species;

“(iii) the protection and restoration of nearshore health and the prevention and mitigation of nonpoint source pollution;

“(iv) habitat and wildlife protection and restoration, including wetlands restoration and preservation; and

“(v) accountability, monitoring, evaluation, communication, and partnership activities.

“(C) PROJECTS.—

“(i) IN GENERAL.—In carrying out the Initiative, the Administrator shall collaborate with other Federal partners, including the Great Lakes Interagency Task Force established by Executive Order No. 13340 (69 Fed. Reg. 29043), to select the best combination of programs and projects for Great Lakes protection and restoration using appropriate principles and criteria, including whether a program or project provides—

“(I) the ability to achieve strategic and measurable environmental outcomes that implement the Initiative Action Plan and the Great Lakes Water Quality Agreement;

“(II) the feasibility of—

“(aa) prompt implementation;

“(bb) timely achievement of results; and

“(cc) resource leveraging; and

“(III) the opportunity to improve interagency, intergovernmental, and interorganizational coordination and collaboration to reduce duplication and streamline efforts.

“(ii) OUTREACH.—In selecting the best combination of programs and projects for Great Lakes protection and restoration under clause (i), the Administrator shall consult with the Great Lakes States and Indian tribes and solicit input from other non-Federal stakeholders.

“(iii) HARMFUL ALGAL BLOOM COORDINATOR.—The Administrator shall designate a point person from an appropriate Federal partner to coordinate, with Federal partners and Great Lakes States, Indian tribes, and other non-Federal stakeholders, projects and activities under the Initiative involving harmful algal blooms in the Great Lakes.”;

(2) in subparagraph (D)—

(A) by striking clause (i) and inserting the following:

“(i) IN GENERAL.—Subject to subparagraph (J)(ii), funds made available to carry out the Initiative shall be used to strategically implement—

“(I) Federal projects;

“(II) projects carried out in coordination with States, Indian tribes, municipalities, institutions of higher education, and other organizations; and

“(III) operations and activities of the Program Office, including remediation of sediment contamination in areas of concern.”;



(B) in clause (ii)(I), by striking “(G)(i)” and inserting “(J)(i)”; and

(C) by inserting after clause (ii) the following:

“(iii) AGREEMENTS WITH NON-FEDERAL ENTITIES.—

“(I) IN GENERAL.—The Administrator, or the head of any other Federal department or agency receiving funds under clause (ii)(I), may make a grant to, or otherwise enter into an agreement with, a qualified non-Federal entity, as determined by the Administrator or the applicable head of the other Federal department or agency receiving funds, for planning, research, monitoring, outreach, or implementation of a project selected under subparagraph (C), to support the Initiative Action Plan or the Great Lakes Water Quality Agreement.

“(II) QUALIFIED NON-FEDERAL ENTITY.—For purposes of this clause, a qualified non-Federal entity may include a governmental entity, non-profit organization, institution, or individual.”; and

(3) by striking subparagraphs (E) through (G) and inserting the following:

“(E) SCOPE.—

“(i) IN GENERAL.—Projects may be carried out under the Initiative on multiple levels, including—

“(I) locally;

“(II) Great Lakes-wide; or

“(III) Great Lakes basin-wide.

“(ii) LIMITATION.—No funds made available to carry out the Initiative may be used for any water infrastructure activity (other than a green infrastructure project that improves habitat and other ecosystem functions in the Great Lakes) for which financial assistance is received—

“(I) from a State water pollution control revolving fund established under title VI;

“(II) from a State drinking water revolving loan fund established under section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12); or

“(III) pursuant to the Water Infrastructure Finance and Innovation Act of 2014 (33 U.S.C. 3901 et seq.).

“(F) ACTIVITIES BY OTHER FEDERAL AGENCIES.—Each relevant Federal department or agency shall, to the maximum extent practicable—

“(i) maintain the base level of funding for the Great Lakes activities of that department or agency without regard to funding under the Initiative; and

“(ii) identify new activities and projects to support the environmental goals of the Initiative.

“(G) REVISION OF INITIATIVE ACTION PLAN.—

“(i) IN GENERAL.—Not less often than once every 5 years, the Administrator, in conjunction with the Great Lakes Interagency Task Force, shall review, and revise as appropriate, the Initiative Action Plan to guide the activities of the Initiative in addressing the restoration and protection of the Great Lakes system.

“(ii) OUTREACH.—In reviewing and revising the Initiative Action Plan under clause (i), the Administrator shall consult with the Great Lakes States and Indian tribes and solicit input from other non-Federal stakeholders.

“(H) MONITORING AND REPORTING.—The Administrator shall—

“(i) establish and maintain a process for monitoring and periodically reporting to the public on the progress made in implementing the Initiative Action Plan;

“(ii) make information about each project carried out under the Initiative Action Plan available on a public website; and

“(iii) provide to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a yearly detailed description of the progress of the Initiative and amounts transferred to participating Federal departments and agencies under subparagraph (D)(ii).

“(I) INITIATIVE ACTION PLAN DEFINED.—In this paragraph, the term ‘Initiative Action Plan’ means the comprehensive, multiyear action plan for the restoration of the Great Lakes, first developed pursuant to the Joint Explanatory Statement of the Conference Report accompanying the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010 (Public Law 111–88).

“(J) FUNDING.—

“(i) IN GENERAL.—There is authorized to be appropriated to carry out this paragraph \$300,000,000 for each of fiscal years 2017 through 2021.

“(ii) LIMITATION.—Nothing in this paragraph creates, expands, or amends the authority of the Administrator to implement programs or projects under—

“(I) this section;

“(II) the Initiative Action Plan; or

“(III) the Great Lakes Water Quality Agreement.”.

#### **SEC. 5006. REHABILITATION OF HIGH HAZARD POTENTIAL DAMS.**

(a) DEFINITIONS.—Section 2 of the National Dam Safety Program Act (33 U.S.C. 467) is amended—

(1) by redesignating paragraphs (4), (5), (6), (7), (8), (9), (10), (11), (12), and (13) as paragraphs (5), (6), (7), (8), (9), (11), (13), (14), (15), and (16), respectively;

(2) by inserting after paragraph (3) the following:

“(4) ELIGIBLE HIGH HAZARD POTENTIAL DAM.—

“(A) IN GENERAL.—The term ‘eligible high hazard potential dam’ means a non-Federal dam that—

“(i) is located in a State with a State dam safety program;

“(ii) is classified as ‘high hazard potential’ by the State dam safety agency in the State in which the dam is located;

“(iii) has an emergency action plan approved by the relevant State dam safety agency; and

“(iv) the State in which the dam is located determines—

“(I) fails to meet minimum dam safety standards of the State; and

“(II) poses an unacceptable risk to the public.

“(B) EXCLUSION.—The term ‘eligible high hazard potential dam’ does not include—

“(i) a licensed hydroelectric dam; or

“(ii) a dam built under the authority of the Secretary of Agriculture.”;

(3) by inserting after paragraph (9) (as redesignated by paragraph (1) of this subsection) the following:

“(10) NON-FEDERAL SPONSOR.—The term ‘non-Federal sponsor’, in the case of a project receiving assistance under section 8A, includes—

“(A) a governmental organization; and

“(B) a nonprofit organization.”; and

(4) by inserting after paragraph (11) (as redesignated by paragraph (1) of this subsection) the following:

“(12) REHABILITATION.—The term ‘rehabilitation’ means the repair, replacement, reconstruction, or removal of a dam that is carried out to meet applicable State dam safety and security standards.”.

(b) PROGRAM FOR REHABILITATION OF HIGH HAZARD POTENTIAL DAMS.—The National Dam Safety Program Act is amended by inserting after section 8 (33 U.S.C. 467f) the following:

**“SEC. 8A. REHABILITATION OF HIGH HAZARD POTENTIAL DAMS.**

33 USC 467f–2.

“(a) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish, within FEMA, a program to provide technical, planning, design, and construction assistance in the form of grants to non-Federal sponsors for rehabilitation of eligible high hazard potential dams.

“(b) ELIGIBLE ACTIVITIES.—A grant awarded under this section for a project may be used for—

“(1) repair;

“(2) removal; or

“(3) any other structural or nonstructural measures to rehabilitate an eligible high hazard potential dam.

“(c) AWARD OF GRANTS.—

“(1) APPLICATION.—

“(A) IN GENERAL.—A non-Federal sponsor interested in receiving a grant under this section may submit to the Administrator an application for the grant.

“(B) REQUIREMENTS.—An application submitted to the Administrator under this section shall be submitted at such time, be in such form, and contain such information as the Administrator may prescribe by regulation.

“(2) GRANT.—

“(A) IN GENERAL.—The Administrator may make a grant in accordance with this section for rehabilitation of an eligible high hazard potential dam to a non-Federal sponsor that submits an application for the grant in accordance with the regulations prescribed by the Administrator.

“(B) PROJECT GRANT AGREEMENT.—The Administrator shall enter into a project grant agreement with the non-

Federal sponsor to establish the terms of the grant and the project, including the amount of the grant.

“(C) GRANT ASSURANCE.—As part of a project grant agreement under subparagraph (B), the Administrator shall require the non-Federal sponsor to provide an assurance, with respect to the dam to be rehabilitated under the project, that the owner of the dam has developed and will carry out a plan for maintenance of the dam during the expected life of the dam.

“(D) LIMITATION.—A grant provided under this section shall not exceed the lesser of—

“(i) 12.5 percent of the total amount of funds made available to carry out this section; or

“(ii) \$7,500,000.

“(d) REQUIREMENTS.—

“(1) APPROVAL.—A grant awarded under this section for a project shall be approved by the relevant State dam safety agency.

“(2) NON-FEDERAL SPONSOR REQUIREMENTS.—To receive a grant under this section, the non-Federal sponsor shall—

“(A) participate in, and comply with, all applicable Federal flood insurance programs;

“(B) have in place a hazard mitigation plan that—

“(i) includes all dam risks; and

“(ii) complies with the Disaster Mitigation Act of 2000 (Public Law 106–390; 114 Stat. 1552);

“(C) commit to provide operation and maintenance of the project for the 50-year period following completion of rehabilitation;

“(D) comply with such minimum eligibility requirements as the Administrator may establish to ensure that each owner and operator of a dam under a participating State dam safety program and that receives assistance under this section—

“(i) acts in accordance with the State dam safety program; and

“(ii) carries out activities relating to the public in the area around the dam in accordance with the hazard mitigation plan described in subparagraph (B); and

“(E) comply with section 611(j)(9) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(j)(9)) (as in effect on the date of enactment of this section) with respect to projects receiving assistance under this section in the same manner as recipients are required to comply in order to receive financial contributions from the Administrator for emergency preparedness purposes.

“(e) FLOODPLAIN MANAGEMENT PLANS.—

“(1) IN GENERAL.—As a condition of receipt of assistance under this section, the non-Federal sponsor shall demonstrate that a floodplain management plan to reduce the impacts of future flood events in the area protected by the project—

“(A) is in place; or

“(B) will be—

“(i) developed not later than 1 year after the date of execution of a project agreement for assistance under this section; and

“(ii) implemented not later than 1 year after the date of completion of construction of the project.

“(2) INCLUSIONS.—A plan under paragraph (1) shall address—

“(A) potential measures, practices, and policies to reduce loss of life, injuries, damage to property and facilities, public expenditures, and other adverse impacts of flooding in the area protected by the project;

“(B) plans for flood fighting and evacuation; and

“(C) public education and awareness of flood risks.

“(3) TECHNICAL SUPPORT.—The Administrator may provide technical support for the development and implementation of floodplain management plans prepared under this subsection.

“(f) PRIORITY SYSTEM.—The Administrator, in consultation with the Board, shall develop a risk-based priority system for use in identifying eligible high hazard potential dams for which grants may be made under this section.

“(g) FUNDING.—

“(1) COST SHARING.—

“(A) IN GENERAL.—Any assistance provided under this section for a project shall be subject to a non-Federal cost-sharing requirement of not less than 35 percent.

“(B) IN-KIND CONTRIBUTIONS.—The non-Federal share under subparagraph (A) may be provided in the form of in-kind contributions.

“(2) ALLOCATION OF FUNDS.—The total amount of funds made available to carry out this section for each fiscal year shall be distributed as follows:

“(A) EQUAL DISTRIBUTION.— $\frac{1}{3}$  shall be distributed equally among the States in which the projects for which applications are submitted under subsection (c)(1) are located.

“(B) NEED-BASED.— $\frac{2}{3}$  shall be distributed among the States in which the projects for which applications are submitted under subsection (c)(1) are located based on the proportion that—

“(i) the number of eligible high hazard potential dams in the State; bears to

“(ii) the number of eligible high hazard potential dams in all such States.

“(h) USE OF FUNDS.—None of the funds provided in the form of a grant or otherwise made available under this section shall be used—

“(1) to rehabilitate a Federal dam;

“(2) to perform routine operation or maintenance of a dam;

“(3) to modify a dam to produce hydroelectric power;

“(4) to increase water supply storage capacity; or

“(5) to make any other modification to a dam that does not also improve the safety of the dam.

“(i) CONTRACTUAL REQUIREMENTS.—

“(1) IN GENERAL.—Subject to paragraph (2), as a condition on the receipt of a grant under this section of an amount greater than \$1,000,000, a non-Federal sponsor that receives the grant shall require that each contract and subcontract

for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, and related services entered into using funds from the grant be awarded in the same manner as a contract for architectural and engineering services is awarded under—

“(A) chapter 11 of title 40, United States Code; or

“(B) an equivalent qualifications-based requirement prescribed by the relevant State.

“(2) NO PROPRIETARY INTEREST.—A contract awarded in accordance with paragraph (1) shall not be considered to confer a proprietary interest upon the United States.

“(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

“(1) \$10,000,000 for fiscal years 2017 and 2018;

“(2) \$25,000,000 for fiscal year 2019;

“(3) \$40,000,000 for fiscal year 2020; and

“(4) \$60,000,000 for each of fiscal years 2021 through 2026.”.

33 USC 467f–2  
note.

(c) RULEMAKING.—

(1) PROPOSED RULEMAKING.—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency shall issue a notice of proposed rulemaking regarding applications for grants of assistance under the amendments made by subsection (b) to the National Dam Safety Program Act (33 U.S.C. 467 et seq.).

(2) FINAL RULE.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency shall promulgate a final rule regarding the amendments described in paragraph (1).

#### SEC. 5007. CHESAPEAKE BAY GRASS SURVEY.

Section 117(i) of the Federal Water Pollution Control Act (33 U.S.C. 1267(i)) is amended by adding at the end the following:

“(3) ANNUAL SURVEY.—The Administrator shall carry out an annual survey of sea grasses in the Chesapeake Bay.”.

#### SEC. 5008. WATER INFRASTRUCTURE FINANCE AND INNOVATION.

(a) AUTHORITY TO PROVIDE ASSISTANCE.—Section 5023(b)(2) of the Water Infrastructure Finance and Innovation Act of 2014 (33 U.S.C. 3902(b)(2)) is amended by striking “carry out” and inserting “provide financial assistance to carry out”.

(b) PROJECTS ELIGIBLE FOR ASSISTANCE.—

(1) IN GENERAL.—Section 5026 of the Water Infrastructure Finance and Innovation Act of 2014 (33 U.S.C. 3905) is amended—

(A) in paragraph (6)—

(i) by striking “desalination project” and inserting “desalination project, including chloride control”; and

(ii) by striking “or a water recycling project” and inserting “a water recycling project, or a project to provide alternative water supplies to reduce aquifer depletion”;

(B) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively;

(C) by inserting after paragraph (6) the following:

“(7) A project to prevent, reduce, or mitigate the effects of drought, including projects that enhance the resilience of drought-stricken watersheds.”; and

(D) in paragraph (10) (as redesignated by subparagraph (B)), by striking “or (7)” and inserting “(7), or (8)”.

(2) CONFORMING AMENDMENTS.—

(A) Section 5023(b) of the Water Infrastructure Finance and Innovation Act of 2014 (33 U.S.C. 3902(b)) is amended—

(i) in paragraph (2) by striking “and (8)” and inserting “(7), and (9)”; and

(ii) in paragraph (3) by striking “paragraph (7) or (9)” and inserting “paragraph (8) or (10)”.

(B) Section 5024(b) of the Water Infrastructure Finance and Innovation Act of 2014 (33 U.S.C. 3903(b)) is amended by striking “paragraph (8) or (9)” and inserting “paragraph (9) or (10)”.

(C) Section 5027(3) of the Water Infrastructure Finance and Innovation Act of 2014 (33 U.S.C. 3906(3)) is amended by striking “section 5026(7)” and inserting “section 5026(8)”.

(D) Section 5028 of the Water Infrastructure Finance and Innovation Act of 2014 (33 U.S.C. 3907) is amended—

(i) in subsection (a)(1)(E)—

(I) by striking “section 5026(9)” and inserting “section 5026(10)”; and

(II) by striking “section 5026(8)” and inserting “section 5026(9)”; and

(ii) in subsection (b)(3) by striking “section 5026(8)” and inserting “section 5026(9)”.

(c) TERMS AND CONDITIONS.—Section 5029(b) of the Water Infrastructure Finance and Innovation Act of 2014 (33 U.S.C. 3908(b)) is amended—

(1) in paragraph (7)—

(A) by striking “The Secretary” and inserting the following:

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary”; and

(B) by adding at the end the following:

“(B) FINANCING FEES.—On request of an eligible entity, the Secretary or the Administrator, as applicable, shall allow the fees under subparagraph (A) to be financed as part of the loan.”; and

(2) by adding at the end the following:

“(10) CREDIT.—Any eligible project costs incurred and the value of any integral in-kind contributions made before receipt of assistance under this subtitle shall be credited toward the 51 percent of project costs to be provided by sources of funding other than a secured loan under this subtitle (as described in paragraph (2)(A)).”.

(d) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) appropriations made available to carry out the Water Infrastructure Finance and Innovation Act of 2014 (33 U.S.C. 3901 et seq.) should be in addition to robust funding for the State water pollution control revolving funds established under title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) and State drinking water treatment revolving

loan funds established under section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12); and

(2) the appropriations made available for the funds referred to in paragraph (1) should not decrease for any fiscal year.

**SEC. 5009. REPORT ON GROUNDWATER CONTAMINATION.**

(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, and annually thereafter for the next 4 years, the Secretary of the Navy shall submit a report to Congress on the groundwater contamination from the site that includes—

(1) a description of the status of the groundwater contaminants that are leaving the site and migrating to a location within a 10-mile radius of the site, including—

(A) detailed mapping of the movement of the plume over time; and

(B) projected migration rates of the plume;

(2) an analysis of the current and future impact of the movement of the plume on drinking water facilities; and

(3) a comprehensive strategy to prevent the groundwater contaminants from the site from contaminating drinking water wells that, as of the date of the submission of the report, have not been affected by the migration of the plume.

(b) **DEFINITIONS.**—In this section, the following definitions apply:

(1) **COMPREHENSIVE STRATEGY.**—The term “comprehensive strategy” means a plan for—

(A) the remediation of the plume under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.); or

(B) corrective action under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(2) **GROUNDWATER.**—The term “groundwater” means water in a saturated zone or stratum beneath the surface of land or water.

(3) **PLUME.**—The term “plume” means any hazardous waste (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)) or hazardous substance (as defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601)) found in the groundwater supply.

(4) **SITE.**—The term “site” means the site located at 830 South Oyster Bay Road, Bethpage, New York, 11714 (Environmental Protection Agency identification number NYD002047967).

**SEC. 5010. COLUMBIA RIVER BASIN RESTORATION.**

Title I of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) is amended by adding at the end the following:

33 USC 1275.

**“SEC. 123. COLUMBIA RIVER BASIN RESTORATION.**

“(a) **DEFINITIONS.**—In this section, the following definitions apply:

“(1) **COLUMBIA RIVER BASIN.**—The term ‘Columbia River Basin’ means the entire United States portion of the Columbia River watershed.

“(2) **ESTUARY PARTNERSHIP.**—The term ‘Estuary Partnership’ means the Lower Columbia Estuary Partnership, an entity



created by the States of Oregon and Washington and the Environmental Protection Agency under section 320.

“(3) ESTUARY PLAN.—

“(A) IN GENERAL.—The term ‘Estuary Plan’ means the Estuary Partnership Comprehensive Conservation and Management Plan adopted by the Environmental Protection Agency and the Governors of Oregon and Washington on October 20, 1999, under section 320.

“(B) INCLUSION.—The term ‘Estuary Plan’ includes any amendments to the plan.

“(4) LOWER COLUMBIA RIVER ESTUARY.—The term ‘Lower Columbia River Estuary’ means the mainstem Columbia River from the Bonneville Dam to the Pacific Ocean and tidally influenced portions of tributaries to the Columbia River in that region.

“(5) MIDDLE AND UPPER COLUMBIA RIVER BASIN.—The term ‘Middle and Upper Columbia River Basin’ means the region consisting of the United States portion of the Columbia River Basin above Bonneville Dam.

“(6) PROGRAM.—The term ‘Program’ means the Columbia River Basin Restoration Program established under subsection (b)(1)(A).

“(b) COLUMBIA RIVER BASIN RESTORATION PROGRAM.—

“(1) ESTABLISHMENT.—

“(A) IN GENERAL.—The Administrator shall establish within the Environmental Protection Agency a Columbia River Basin Restoration Program.

“(B) EFFECT.—

“(i) The establishment of the Program does not modify any legal or regulatory authority or program in effect as of the date of enactment of this section, including the roles of Federal agencies in the Columbia River Basin.

“(ii) This section does not create any new regulatory authority.

“(2) SCOPE OF PROGRAM.—The Program shall consist of a collaborative stakeholder-based program for environmental protection and restoration activities throughout the Columbia River Basin.

“(3) DUTIES.—The Administrator shall—

“(A) assess trends in water quality, including trends that affect uses of the water of the Columbia River Basin;

“(B) collect, characterize, and assess data on water quality to identify possible causes of environmental problems; and

“(C) provide grants in accordance with subsection (d) for projects that assist in—

“(i) eliminating or reducing pollution;

“(ii) cleaning up contaminated sites;

“(iii) improving water quality;

“(iv) monitoring to evaluate trends;

“(v) reducing runoff;

“(vi) protecting habitat; or

“(vii) promoting citizen engagement or knowledge.

“(c) STAKEHOLDER WORKING GROUP.—

“(1) ESTABLISHMENT.—The Administrator shall establish a Columbia River Basin Restoration Working Group (referred to in this subsection as the ‘Working Group’).

“(2) MEMBERSHIP.—

“(A) IN GENERAL.—Membership in the Working Group shall be on a voluntary basis and any person invited by the Administrator under this subsection may decline membership.

“(B) INVITED REPRESENTATIVES.—The Administrator shall invite, at a minimum, representatives of—

“(i) each State located in whole or in part in the Columbia River Basin;

“(ii) the Governors of each State located in whole or in part in the Columbia River Basin;

“(iii) each federally recognized Indian tribe in the Columbia River Basin;

“(iv) local governments in the Columbia River Basin;

“(v) industries operating in the Columbia River Basin that affect or could affect water quality;

“(vi) electric, water, and wastewater utilities operating in the Columbia River Basin;

“(vii) private landowners in the Columbia River Basin;

“(viii) soil and water conservation districts in the Columbia River Basin;

“(ix) nongovernmental organizations that have a presence in the Columbia River Basin;

“(x) the general public in the Columbia River Basin; and

“(xi) the Estuary Partnership.

“(3) GEOGRAPHIC REPRESENTATION.—The Working Group shall include representatives from—

“(A) each State located in whole or in part in the Columbia River Basin; and

“(B) each of the lower, middle, and upper basins of the Columbia River.

“(4) DUTIES AND RESPONSIBILITIES.—The Working Group shall—

“(A) recommend and prioritize projects and actions; and

“(B) review the progress and effectiveness of projects and actions implemented.

“(5) LOWER COLUMBIA RIVER ESTUARY.—

“(A) ESTUARY PARTNERSHIP.—The Estuary Partnership shall perform the duties and fulfill the responsibilities of the Working Group described in paragraph (4) as those duties and responsibilities relate to the Lower Columbia River Estuary for such time as the Estuary Partnership is the management conference for the Lower Columbia River National Estuary Program under section 320.

“(B) DESIGNATION.—If the Estuary Partnership ceases to be the management conference for the Lower Columbia River National Estuary Program under section 320, the Administrator may designate the new management conference to assume the duties and responsibilities of the Working Group described in paragraph (4) as those duties

and responsibilities relate to the Lower Columbia River Estuary.

“(C) INCORPORATION.—If the Estuary Partnership is removed from the National Estuary Program, the duties and responsibilities for the lower 146 miles of the Columbia River pursuant to this section shall be incorporated into the duties of the Working Group.

“(d) GRANTS.—

“(1) IN GENERAL.—The Administrator shall establish a voluntary, competitive Columbia River Basin program to provide grants to State governments, tribal governments, regional water pollution control agencies and entities, local government entities, nongovernmental entities, or soil and water conservation districts to develop or implement projects authorized under this section for the purpose of environmental protection and restoration activities throughout the Columbia River Basin.

“(2) FEDERAL SHARE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share of the cost of any project or activity carried out using funds from a grant provided to any person (including a State, tribal, or local government or interstate or regional agency) under this subsection for a fiscal year—

“(i) shall not exceed 75 percent of the total cost of the project or activity; and

“(ii) shall be made on condition that the non-Federal share of such total cost shall be provided from non-Federal sources.

“(B) EXCEPTIONS.—With respect to cost-sharing for a grant provided under this subsection—

“(i) a tribal government may use Federal funds for the non-Federal share; and

“(ii) the Administrator may increase the Federal share under such circumstances as the Administrator determines to be appropriate.

“(3) ALLOCATION.—In making grants using funds appropriated to carry out this section, the Administrator shall—

“(A) provide not less than 25 percent of the funds to make grants for projects, programs, and studies in the Lower Columbia River Estuary;

“(B) provide not less than 25 percent of the funds to make grants for projects, programs, and studies in the Middle and Upper Columbia River Basin, including the Snake River Basin; and

“(C) retain not more than 5 percent of the funds for the Environmental Protection Agency for purposes of implementing this section.

“(4) REPORTING.—

“(A) IN GENERAL.—Each grant recipient under this subsection shall submit to the Administrator reports on progress being made in achieving the purposes of this section.

“(B) REQUIREMENTS.—The Administrator shall establish requirements and timelines for recipients of grants under this subsection to report on progress made in achieving the purposes of this section.

“(5) RELATIONSHIP TO OTHER FUNDING.—

“(A) IN GENERAL.—Nothing in this subsection limits the eligibility of the Estuary Partnership to receive funding under section 320(g).

“(B) LIMITATION.—None of the funds made available under this subsection may be used for the administration of a management conference under section 320.

“(e) ANNUAL BUDGET PLAN.—The President, as part of the annual budget submission of the President to Congress under section 1105(a) of title 31, United States Code, shall submit information regarding each Federal agency involved in protection and restoration of the Columbia River Basin, including an interagency crosscut budget that displays for each Federal agency—

“(1) the amounts obligated for the preceding fiscal year for protection and restoration projects, programs, and studies relating to the Columbia River Basin;

“(2) the estimated budget for the current fiscal year for protection and restoration projects, programs, and studies relating to the Columbia River Basin; and

“(3) the proposed budget for protection and restoration projects, programs, and studies relating to the Columbia River Basin.”.

#### **SEC. 5011. REGULATION OF ABOVEGROUND STORAGE AT FARMS.**

Section 1049(c) of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 1361 note; Public Law 113–121) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(2) by striking the subsection designation and heading and all that follows through “subsection (b),” and inserting the following:

“(c) REGULATION OF ABOVEGROUND STORAGE AT FARMS.—

“(1) CALCULATION OF AGGREGATE ABOVEGROUND STORAGE CAPACITY.—For purposes of subsection (b),”;

(3) by adding at the end the following:

“(2) CERTAIN FARM CONTAINERS.—Part 112 of title 40, Code of Federal Regulations (or successor regulations), shall not apply to the following containers located at a farm:

“(A) Containers on a separate parcel that have—

“(i) an individual capacity of not greater than 1,000 gallons; and

“(ii) an aggregate capacity of not greater than 2,500 gallons.

“(B) A container holding animal feed ingredients approved for use in livestock feed by the Food and Drug Administration.”.

#### **SEC. 5012. IRRIGATION DISTRICTS.**

Section 603(i)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1383) is amended—

(1) in the matter preceding subparagraph (A) by striking “to a municipality or intermunicipal, interstate, or State agency” and inserting “to an eligible recipient”; and

(2) in subparagraph (A), in the matter preceding clause (i), by inserting “in assistance to a municipality or intermunicipal, interstate, or State agency” before “to benefit”.

**SEC. 5013. ESTUARY RESTORATION.**

(a) **PARTICIPATION OF NON-FEDERAL INTERESTS.**—Section 104(f) of the Estuary Restoration Act of 2000 (33 U.S.C. 2903(f)) is amended by adding at the end the following:

“(3) **PROJECT AGREEMENTS.**—For a project carried out under this title, the requirements of section 103(j)(1) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(j)(1)) may be fulfilled by a nongovernmental organization serving as the non-Federal interest for the project pursuant to paragraph (2).”.

(b) **EXTENSION.**—Section 109(a) of the Estuary Restoration Act of 2000 (33 U.S.C. 2908(a)) is amended by striking “2012” each place it appears and inserting “2021”.

**SEC. 5014. ENVIRONMENTAL BANKS.**

The Coastal Wetlands Planning, Protection and Restoration Act (Public Law 101–646; 16 U.S.C. 3951 et seq.) is amended by adding at the end the following:

**“SEC. 309. ENVIRONMENTAL BANKS.**

16 USC 3957.

“(a) **GUIDELINES.**—Not later than 1 year after the date of enactment of the Water Resources Development Act of 2016, the Task Force shall, after public notice and opportunity for comment, issue guidelines for the use, maintenance, and oversight of environmental banks in Louisiana.

“(b) **REQUIREMENTS.**—The guidelines issued pursuant to subsection (a) shall—

“(1) set forth procedures for establishment and approval of environmental banks subject to the approval of the heads of the appropriate Federal agencies responsible for implementation of Federal environmental laws for which mitigation credits may be used;

“(2) establish criteria for siting of environmental banks that enhance the resilience of coastal resources to inundation and coastal erosion in high priority areas, as identified within Federal or State restoration plans, including the restoration of resources within the scope of a project authorized for construction;

“(3) establish criteria that ensure environmental banks secure adequate financial assurances and legally enforceable protection for the land or resources that generate the credits from environmental banks;

“(4) stipulate that credits from environmental banks may not be used for mitigation of impacts required under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1342) or the Endangered Species Act (16 U.S.C. 1531 et seq.) in an area where an existing mitigation bank approved pursuant to such laws within 5 years of enactment of the Water Resources Development Act of 2016 has credits available;

“(5) establish performance criteria for environmental banks; and

“(6) establish criteria and financial assurance for the operation and monitoring of environmental banks.

“(c) **ENVIRONMENTAL BANK.**—

“(1) **DEFINITION OF ENVIRONMENTAL BANK.**—In this section, the term ‘environmental bank’ means a project, project increment, or projects for purposes of restoring, creating, or

enhancing natural resources at a designated site to establish mitigation credits.

“(2) CREDITS.—Mitigation credits created from environmental banks approved pursuant to this section may be used to satisfy existing liability under Federal environmental laws.

“(d) SAVINGS CLAUSE.—

“(1) APPLICATION OF FEDERAL LAW.—Guidelines developed under this section and mitigation carried out through an environmental bank established pursuant to such guidelines shall comply with all applicable requirements of Federal law (including regulations), including—

“(A) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

“(B) the Endangered Species Act (16 U.S.C. 1531 et seq.);

“(C) the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.);

“(D) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

“(E) section 906 of the Water Resources Development Act of 1986 (33 U.S.C. 2283).

“(2) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to affect—

“(A) any authority, regulatory determination, or legal obligation in effect the day before the date of enactment of the Water Resources Development Act of 2016; or

“(B) the obligations or requirements of any Federal environmental law.

“(e) SUNSET.—No new environmental bank may be created or approved pursuant to this section after the date that is 10 years after the date of enactment of this section.”.

Approved December 16, 2016.

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LEGISLATIVE HISTORY—S. 612:

CONGRESSIONAL RECORD:

Vol. 161 (2015): May 21, considered and passed Senate.

Vol. 162 (2016): Dec. 8, considered and passed House, amended. Senate considered concurring in House amendment.

Dec. 9, Senate concurred in House amendment.

DAILY COMPILATION OF PRESIDENTIAL DOCUMENTS (2016):

Dec. 16, Presidential statement.

