

107TH CONGRESS  
1ST SESSION

# S. 976

To provide authorization and funding for the enhancement of the ecosystems,  
water supply, and water quality of the State of California.

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IN THE SENATE OF THE UNITED STATES

MAY 25, 2001

Mrs. FEINSTEIN introduced the following bill; which was read twice and  
referred to the Committee on Energy and Natural Resources

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## A BILL

To provide authorization and funding for the enhancement  
of the ecosystems, water supply, and water quality of  
the State of California.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “California Ecosystem,  
5       Water Supply, and Water Quality Enhancement Act of  
6       2001”.

7       **SEC. 2. DEFINITIONS.**

8       In this Act:

9               (1) AGENCY HEAD.—The term “agency head”  
10       means the head of a Federal agency.

1           (2) AUTHORIZING COMMITTEE.—The term “au-  
2       thorizing committee” means each of—

3                   (A) the Committee on Energy and Natural  
4       Resources of the Senate;

5                   (B) the Committee on Environment and  
6       Public Works of the Senate; and

7                   (C) the Committee on Resources of the  
8       House of Representatives.

9           (3) BAY-DELTA.—The term “Bay-Delta” means  
10     the San Francisco Bay-Delta.

11           (4) BAY-DELTA PROGRAM.—The term “Bay-  
12     Delta Program” means the programs, projects, and  
13     activities—

14                   (A) carried out under the CALFED Bay-  
15     Delta Program referred to in the California  
16     Bay-Delta Environmental Enhancement and  
17     Water Security Act (division E of Public Law  
18     104–208; 110 Stat. 3009–748);

19                   (B) identified in the record of decision, in-  
20     cluding the complementary actions; or

21                   (C) developed under section 4.

22           (5) BAY-DELTA PROGRAM OBJECTIVES.—The  
23     term “Bay-Delta Program objectives” means the ob-  
24     jectives established in the record of decision for—

25                   (A) water quality;

- 1 (B) ecosystem restoration;
- 2 (C) water supply reliability; and
- 3 (D) levee protection.

4 (6) BAY-DELTA PROGRAM POLICY GROUP.—The  
5 term “Bay-Delta Program Policy Group” means the  
6 organization of the Federal agencies and the State  
7 agencies established to provide policy oversight of  
8 the Bay-Delta Program in accordance with section  
9 4(b).

10 (7) CALIFORNIA UPDATE.—The term “Calif-  
11 ornia update” means the review and updating of  
12 the State water plan required every 5 years by the  
13 Department of Water Resources of the State.

14 (8) COMPLEMENTARY ACTIONS.—The term  
15 “complementary actions” means the programs and  
16 projects described in section 1.2 of the record of de-  
17 cision and identified as such throughout the record  
18 of decision that were not included in the final envi-  
19 ronmental impact statement and report preferred al-  
20 ternative described in the record of decision.

21 (9) DELTA.—The term “Delta” means the Sac-  
22 ramento-San Joaquin River Delta.

23 (10) DIRECTOR.—The term “Director” means  
24 the Director of the Office of Management and Budg-  
25 et.

1           (11) ECOSYSTEM ENHANCEMENT PROGRAM.—

2           The term “ecosystem enhancement program” means  
3           the programs and activities developed under section  
4           3.

5           (12) ECOSYSTEM RESTORATION PROGRAM.—

6           The term “ecosystem restoration program” means  
7           the program described in section 2.2.2 of the record  
8           of decision.

9           (13) ENVIRONMENTAL WATER ACCOUNT.—The  
10          term “environmental water account” means the re-  
11          serve of water provided for in section 2.2.7 of the  
12          record of decision to provide water, in addition to  
13          the amount of the regulatory baseline, to protect and  
14          restore Delta fisheries.

15          (14) FEDERAL AGENCY.—The term “Federal  
16          agency” means each of the following Federal agen-  
17          cies:

18                (A) The Department of Agriculture (in-  
19                cluding the Natural Resources Conservation  
20                Service and the Forest Service).

21                (B) The Department of Commerce (includ-  
22                ing the National Marine Fisheries Service).

23                (C) The Department of Defense (including  
24                the Corps of Engineers).

1 (D) The Department of Energy (including  
2 the Western Area Power Administration).

3 (E) The Department of the Interior (in-  
4 cluding the Bureau of Land Management, the  
5 Bureau of Reclamation, the United States Fish  
6 and Wildlife Service, and the United States Ge-  
7 ological Survey).

8 (F) The Environmental Protection Agency.

9 (15) GOVERNOR.—The term “Governor” means  
10 the Governor of the State.

11 (16) IMPLEMENTATION MEMORANDUM.—The  
12 term “implementation memorandum” means the  
13 memorandum of understanding on implementation  
14 of the Bay-Delta Program executed by the Federal  
15 agencies and the State agencies.

16 (17) RECORD OF DECISION.—The term “record  
17 of decision” means the Federal record of decision  
18 dated August 28, 2000, relating to the Bay-Delta  
19 Program, issued by certain Federal agencies under  
20 the National Environmental Policy Act of 1969 (42  
21 U.S.C. 4321 et seq.).

22 (18) SECRETARY.—The term “Secretary”  
23 means the Secretary of the Interior.

24 (19) STAGE 1.—The term “stage 1” means the  
25 programs and projects planned for the first 7 years

1 of the Bay-Delta Program, as specified in the record  
 2 of decision.

3 (20) STATE.—The term “State” means the  
 4 State of California.

5 (21) STATE AGENCY.—The term “State agen-  
 6 cy” means each agency of the State that participates  
 7 in the Bay-Delta Program, including—

8 (A) the Department of Fish and Game;

9 (B) the Department of Food and Agri-  
 10 culture;

11 (C) the Department of Health Services;

12 (D) the Department of Water Resources;

13 (E) the Environmental Protection Agency;

14 (F) the Resources Agency; and

15 (G) the Water Resources Control Board.

16 (22) WATER SUPPLY PROGRAM.—The term  
 17 “water supply program” means the long-term water  
 18 supply enhancement program developed under sec-  
 19 tion 5.

20 **SEC. 3. ECOSYSTEM ENHANCEMENT PROGRAM.**

21 (a) FINDINGS.—Congress finds that—

22 (1) under the Bay-Delta Program, there has  
 23 been developed an ecosystem restoration plan that is  
 24 intended to achieve the environmental restoration  
 25 objectives of the Bay-Delta Program, including—

1 (A) improved and increased aquatic and  
2 terrestrial habitats;

3 (B) improved ecological functions in the  
4 Bay-Delta;

5 (C) increased populations of plant and ani-  
6 mal species; and

7 (D) recovery of threatened and endangered  
8 species;

9 (2) the record of decision estimates that—

10 (A) measures included in the ecosystem  
11 restoration program will require a minimum of  
12 \$1,000,000,000, in addition to baseline funding  
13 for related restoration efforts, during the first  
14 7 years of implementation; and

15 (B) \$200,000,000, in addition to baseline  
16 funding for related restoration efforts and sums  
17 necessary for the ecosystem restoration pro-  
18 gram, will be needed to support the environ-  
19 mental water account over at least the first 4  
20 years of implementation;

21 (3) the establishment of a dedicated ecosystem  
22 restoration fund is necessary to ensure that imple-  
23 mentation of the Bay-Delta Program maintains the  
24 necessary balance between the environmental goals  
25 and other goals of the Bay-Delta Program; and

(4) the ecosystem enhancement program is intended to ensure that the environment receives water of sufficient quality and quantity, and at the appropriate time, to achieve the environmental restoration objectives of the Bay-Delta Program.

(b) FEDERAL ROLE.—

(1) PERFORMANCE OBJECTIVES.—

(A) IN GENERAL.—In consultation with the State, the Secretary shall develop measurable performance objectives and an associated timeline for implementation of the ecosystem restoration program.

(B) INCLUSIONS.—Performance objectives for the ecosystem restoration program shall include—

(i) attainment of self-sustaining fish and wildlife populations; and

(ii) recovery of threatened and endangered species.

(2) INDEPENDENT SCIENTIFIC PANEL.—

(A) IN GENERAL.—The Secretary shall convene an independent scientific panel to identify the quality and quantity of water needed, and the time at which the water is necessary,



1 to achieve the performance objectives developed  
2 under paragraph (1).

3 (B) USE OF BEST AVAILABLE SCIENCE.—

4 The panel shall base its recommendations on  
5 the best available science.

6 (3) REPORT.—The Secretary shall submit to  
7 the authorizing committees an annual report that—

8 (A) describes the progress of the Bay-  
9 Delta Program in meeting the performance ob-  
10 jectives developed under paragraph (1); and

11 (B) recommends projects and activities in  
12 addition to the Bay-Delta Program to further  
13 the goals and objectives of the ecosystem res-  
14 toration program.

15 (4) ADDITIONAL FUNDING MECHANISMS.—

16 (A) DEVELOPMENT.—The Secretary and  
17 the agency heads shall cooperate with the State  
18 in developing recommendations for additional  
19 funding mechanisms that will ensure long-term  
20 funding for the ecosystem restoration program.

21 (B) REPORT.—Not later than June 30,  
22 2005, the Secretary, in cooperation with the  
23 Federal agencies and the State agencies, shall  
24 submit to the authorizing committees a report  
25 that provides recommendations concerning how

1           to fund the ecosystem restoration program ade-  
2           quately.

3       (c) AUTHORIZATION OF APPROPRIATIONS.—There  
4 are authorized to be appropriated such sums as are nec-  
5 essary to carry out the ecosystem enhancement program,  
6 to remain available until expended.

7 **SEC. 4. BAY-DELTA PROGRAM.**

8       (a) FINDINGS.—Congress finds that—

9           (1) the mission of the Bay-Delta Program is to  
10 develop a long-term comprehensive plan that will re-  
11 store the ecological health and improve water man-  
12 agement for beneficial uses in the Bay-Delta system;

13       (2)(A) the Bay-Delta Program is committed—

14           (i) to finding equitable solutions that solve  
15 all of the complex and interrelated issues con-  
16 cerning water use; and

17           (ii) to ensuring that improvements for  
18 some problem areas will not be made without  
19 corresponding improvements for other problem  
20 areas; and

21       (B) the record of decision provides that agen-  
22 cies participating in the Bay-Delta Program will es-  
23 tablish an environmental water account to provide  
24 water in addition to the amount of the regulatory  
25 baseline to protect and restore Delta fisheries;

1           (3) the Bay-Delta Program was developed as a  
 2           joint Federal-State program to deal effectively with  
 3           the multijurisdictional issues involved in managing  
 4           the Bay-Delta; and

5           (4) the Federal agencies and the State agencies  
 6           executed a memorandum of understanding on imple-  
 7           mentation of the Bay-Delta Program that—

8                   (A) provides for interim governance of the  
 9           Bay-Delta Program; and

10                   (B) is part of the record of decision.

11       (b) PROGRAM GOVERNANCE.—

12           (1) INTERIM GOVERNANCE STRUCTURE.—The  
 13       Secretary and the agency heads shall—

14                   (A) operate under the terms of the imple-  
 15           mentation memorandum until such time as the  
 16           implementation memorandum is replaced by ap-  
 17           proval of a permanent governance structure;  
 18           and

19                   (B) participate in the replacement govern-  
 20           ance structure.

21       (2) PERMANENT GOVERNANCE STRUCTURE.—

22       The Secretary and the agency heads shall—

23                   (A) work with their State counterparts to  
 24           develop a permanent governance structure to

1           replace the implementation memorandum  
2           that—

3                   (i) provides for meaningful participa-  
4                   tion by local governments and agencies;

5                   (ii) preserves area-of-origin rights;  
6                   and

7                   (iii) encourages local and regional  
8                   partnerships; and

9                   (B) seek Federal and State authorization  
10           and approval of the permanent governance  
11           structure, as appropriate.

12       (c) FEDERAL ROLE.—The Secretary and the agency  
13   heads shall—

14           (1) participate in the governance and adminis-  
15           tration of the Bay-Delta Program under this section;  
16           and

17           (2) subject to the availability of appropriations  
18           under subsection (g), carry out all actions necessary  
19           to implement stage 1, including—

20                   (A) planning;

21                   (B) pre-feasibility and feasibility studies;

22                   (C) environmental review;

23                   (D) acquisition;

24                   (E) pilot programs;

25                   (F) grants and loans;

1 (G) construction of environmental and  
 2 physical improvements identified in the record  
 3 of decision for implementation in stage 1; and

4 (H) other actions in all Bay-Delta Pro-  
 5 gram areas, including the complementary ac-  
 6 tions.

7 (d) PERFORMANCE.—

8 (1) IN GENERAL.—In carrying out this Act, the  
 9 Secretary and the agency heads shall ensure, to the  
 10 maximum extent practicable, that Federal participa-  
 11 tion in the Bay-Delta Program results in—

12 (A) simultaneous carrying out of water  
 13 supply and ecosystem improvements; and

14 (B) balanced, continuous, measurable, and  
 15 significant progress toward achieving Bay-Delta  
 16 Program objectives through the application of  
 17 the Bay-Delta Program solution principles and  
 18 the balanced implementation of projects in the  
 19 8 program areas covered by the record of deci-  
 20 sion, consisting of—

21 (i) ecosystem restoration;

22 (ii) water storage;

23 (iii) water conveyance;

24 (iv) water use efficiency;

25 (v) watershed management;

- 1 (vi) levee system integrity;
- 2 (vii) water transfers; and
- 3 (viii) water quality.

4 (2) SOUTH-OF-DELTA WATER SUPPLY ASSUR-  
5 ANCE.—

6 (A) FINDING.—Congress finds that the  
7 Secretary should—

8 (i) carry out the record of decision  
9 with respect to water allocations to south-  
10 of-Delta Central Valley Project agricultural  
11 service contractors; and

12 (ii) implement the increase, in the  
13 manner and to the extent described in the  
14 record of decision, in normal years to  
15 south-of-Delta agricultural water service  
16 contractors of 15 percent (or greater) of  
17 existing contract totals, to the level of 65  
18 to 70 percent.

19 (B) REPORT TO CONGRESS.—In accord-  
20 ance with subsection (f)(2)(C)(xiii), the Sec-  
21 retary shall report to Congress with respect to  
22 increasing south-of-Delta Central Valley Project  
23 water supplies.

24 (3) LOCAL PARTNERSHIPS.—The Secretary, as  
25 appropriate in managing the implementation of the

1 Bay-Delta Program, shall seek out and promote  
2 partnerships with local interests and programs that  
3 seek to integrate various management options so as  
4 to maximize the final resource benefits.

5 (4) ENVIRONMENTAL WATER ACCOUNT PRIOR-  
6 ITIES AND OPERATION.—

7 (A) IN GENERAL.—In the allocation and  
8 use of the environmental water account and the  
9 ecosystem restoration program assets, the Sec-  
10 retary shall give first priority to meeting obliga-  
11 tions under the Endangered Species Act of  
12 1973 (16 U.S.C. 1531 et seq.).

13 (B) EFFECT OF FAILURE TO MEET WATER  
14 PURCHASE TARGETS.—If, by December 31 of  
15 any year, the environmental water account  
16 water purchase targets, or their functional  
17 equivalents, have not been met, the Federal  
18 agencies shall—

19 (i) continue their efforts to meet the  
20 water purchase targets; and

21 (ii) make use of the available environ-  
22 mental water account assets to—

23 (I) avoid listing of species under  
24 section 4(c) of the Endangered Spe-  
25 cies Act of 1973 (16 U.S.C. 1533(c));

1 (II) avoid jeopardizing the con-  
2 tinued survival of any species listed  
3 under section 4(c) of that Act; and

4 (III) carry out subclauses (I) and  
5 (II) in a manner consistent with mini-  
6 mizing water supply and water quality  
7 impacts.

8 (e) PUBLIC PARTICIPATION.—In carrying out the  
9 Bay-Delta Program, the Secretary shall cooperate with  
10 State, local, and tribal governments, nongovernmental or-  
11 ganizations, and the public, through a federally chartered  
12 advisory committee or other appropriate means, to seek  
13 input on program elements such as—

- 14 (1) planning;  
15 (2) design;  
16 (3) technical assistance;  
17 (4) ecosystem restoration; and  
18 (5) development of peer review science pro-  
19 grams.

20 (f) REPORTING, OVERSIGHT, AND ACCOUNT-  
21 ABILITY.—

22 (1) IN GENERAL.—Not later than February 15  
23 of each year, the Secretary, in consultation with the  
24 Governor, the Federal agencies, the State agencies,  
25 and other interested persons and agencies, shall—



1 (A) review the progress of the Bay-Delta  
2 Program in meeting the implementation sched-  
3 ule provided in the record of decision; and

4 (B) submit to the authorizing committees  
5 a report that describes the status of implemen-  
6 tation of all elements of the Bay-Delta Pro-  
7 gram.

8 (2) SUMMARIES.—The report under paragraph  
9 (1)(B) shall—

10 (A) include a detailed accounting of all  
11 funds received by the Federal agencies and the  
12 State agencies for the Bay-Delta Program  
13 under the budget of the Bay-Delta Program for  
14 the previous fiscal year, including—

15 (i) a description of all projects and ac-  
16 tivities funded under this Act in that fiscal  
17 year; and

18 (ii) the amount of any unexpended  
19 funds for that fiscal year;

20 (B) describe—

21 (i) expenditures of the Bay-Delta Pro-  
22 gram in the previous fiscal year and the  
23 current fiscal year up to the date of the re-  
24 port; and

(ii) accomplishments in the previous fiscal year and the current fiscal year up to the date of the report in achieving improvement in the Bay-Delta Program elements of—

(I) ecosystem restoration;

(II) water storage;

(III) water conveyance;

(IV) water use efficiency;

(V) watershed management;

(VI) levee system integrity;

(VII) water transfers; and

(VIII) water quality; and

(C) describe the status of all actions (including goals, schedules, and financing agreements), including—

(i) completion of key projects and milestones identified in the ecosystem restoration portion of the Bay-Delta Program;

(ii) development and implementation of local programs for watershed conservation and restoration;

(iii) progress in the improvement of water quality, water supply reliability, and implementation of the ecosystem restora-

1           tion plan and the environmental water ac-  
2           count;

3                 (iv) achievement of commitments  
4           under the Endangered Species Act of 1973  
5           (16 U.S.C 1531 et seq.) and any equiva-  
6           lent State law;

7                 (v) implementation of a comprehensive  
8           science program;

9                 (vi) progress in carrying out storage  
10          projects, conveyance improvements, levee  
11          improvements, water quality projects, and  
12          water use efficiency programs;

13                (vii) progress in the acquisition of the  
14          Federal and State permits (including per-  
15          mits under section 404 of the Federal  
16          Water Pollution Control Act (33 U.S.C.  
17          1344)) for implementation of projects in  
18          all identified program areas;

19                (viii) progress in achieving benefits in  
20          all geographic regions covered by the Bay-  
21          Delta Program;

22                (ix) enactment of appropriate legisla-  
23          tion on water transfer, ground water man-  
24          agement, water use efficiency, and govern-  
25          ance issues;

1 (x) the complementary actions;

2 (xi) mitigation efforts referred to in  
3 the record of decision;

4 (xii) any revision of funding commit-  
5 ments and program responsibilities;

6 (xiii) progress in meeting the water  
7 supply projections for south-of-Delta water  
8 users as described in the record of decision  
9 and described in subsection (d)(2),  
10 including—

11 (I) progress in defining the term  
12 “normal year”;

13 (II) progress in defining how the  
14 water supply projections translate into  
15 water supply objectives for years other  
16 than normal years;

17 (III) progress in developing a  
18 plan for meeting the water supply ob-  
19 jectives in all types of year;

20 (IV) a description of the actual  
21 water deliveries to south-of-Delta and  
22 other Central Valley Project contrac-  
23 tors; and

24 (V) a full explanation of the fac-  
25 tors that resulted in meeting or failing

1 to meet the water supply projections  
2 and the goals described in subclauses  
3 (I) through (IV);

4 (xiv) progress in meeting the State  
5 Water Project pumping goals as described  
6 in the record of decision, including—

7 (I) progress in developing oper-  
8 ating criteria for and implementing  
9 the increased pumping limits; and

10 (II)(aa) an estimate of the bene-  
11 fits that will be derived from the in-  
12 creased pumping, including the pro-  
13 jected and actual water delivery im-  
14 provements to State Water Project  
15 contractors and other south-of-Delta  
16 water users; and

17 (bb) a full explanation of the fac-  
18 tors that resulted in providing or fail-  
19 ing to provide those benefits;

20 (xv) assessment of the cumulative ef-  
21 fect of Bay-Delta Program activities on—

22 (I) water supply available for ag-  
23 ricultural, urban, and environmental  
24 purposes;

1 (II) long-term ground water over-  
2 draft;

3 (III) land available for sustain-  
4 able agriculture;

5 (IV) accumulation of salts in the  
6 soils and ground water south of the  
7 Delta; and

8 (V) electrical energy production  
9 and consumption;

10 (xvi) development of a finance strat-  
11 egy to implement the “beneficiaries pay”  
12 provision of the record of decision;

13 (xvii) progress in implementing user  
14 fees as described in the record of decision;  
15 and

16 (xviii) progress in implementing  
17 ground water management programs as  
18 described in the record of decision.

19 (3) FAILURE TO ADHERE TO SCHEDULE OR OB-  
20 JECTIVES.—

21 (A) GOAL.—Bay-Delta Program implemen-  
22 tation shall achieve balanced progress in all  
23 program areas.

24 (B) REVISED SCHEDULE.—If, after sub-  
25 mission of a report under paragraph (1)(B), the

Governor (with respect to a State agency) or the Secretary (with respect to a Federal agency) determines that there has not been substantial compliance by the agency with the schedule or objectives established by the record of decision, or if a timely annual review has not been carried out under paragraph (1)(A), the Governor and the Secretary, after providing notice to, and consulting with, each other, the Federal agencies, and the State agencies, shall prepare a revised schedule that ensures achievement of balanced progress in all program areas in accordance with—

(i) the record of decision; and

(ii) any applicable regulatory compliance documents.

(C) EFFECT OF NONCOMPLIANCE ON AVAILABILITY OF FUNDING.—If the Governor or the Secretary makes a finding of noncompliance under subparagraph (B), State funds (if the determination is made by the Governor) or Federal funds (if the determination is made by the Secretary) to the extent authorized to be appropriated, shall be made available for expenditure in the subsequent fiscal year only if

1 a revised schedule or revised objectives have  
2 been developed not later than 180 days after  
3 the date on which the finding is made.

4 (4) SPECIFIC PERFORMANCE OBJECTIVES.—

5 (A) IN GENERAL.—The Secretary, in co-  
6 operation with the Federal agencies, the State  
7 agencies, and the Bay-Delta Program Policy  
8 Group, shall submit as part of the report of the  
9 Secretary under paragraph (1)(B) detailed per-  
10 formance objectives for all Bay-Delta Program  
11 projects and activities.

12 (B) UPDATING OF PERFORMANCE OBJEC-  
13 TIVES.—The Secretary may update the per-  
14 formance objectives, with appropriate expla-  
15 nation, in a subsequent report.

16 (C) PRESUMPTION OF COMPLIANCE.—If  
17 performance objectives have been approved by  
18 the Bay-Delta Program Policy Group for all  
19 Bay-Delta Program areas under the governance  
20 provisions of section (b), achievement of the  
21 performance objectives by the Federal agencies,  
22 the State agencies, and local agencies shall cre-  
23 ate a presumption of compliance with para-  
24 graph (3).

25 (g) FUNDING.—



1           (1) AUTHORIZATION OF APPROPRIATIONS.—

2           There are authorized to be appropriated such sums  
3           as are necessary to pay the Federal share of the cost  
4           of carrying out stage 1, to remain available until ex-  
5           pended, including—

6                     (A) planning;

7                     (B) pre-feasibility and feasibility studies;

8                     (C) environmental review;

9                     (D) pilot programs;

10                    (E) grants and loans;

11                    (F) purchases of water; and

12                    (G) administration of all Bay-Delta Pro-  
13           gram areas.

14           (2) CONDITIONS ON USE OF FUNDS.—The use  
15           of funds made available under paragraph (1) to  
16           carry out a project or activity of stage 1 shall be  
17           subject to the following conditions:

18                    (A) APPROVAL.—Funding of the project or  
19           activity shall be subject to approval by the Bay-  
20           Delta Program Policy Group.

21                    (B) REQUIREMENTS.—Projects and activi-  
22           ties carried out using funds made available  
23           under paragraph (1) may include, but shall not  
24           be limited to, a project or activity that is—

1 (i) funded in part by funds made  
2 available to support the environmental  
3 water account;

4 (ii) an environmental enhancement  
5 project that—

6 (I) improves fish passages  
7 through modification or removal of 1  
8 or more locally owned dams (including  
9 the Woodbridge Dam on the  
10 Mokelumne River, the Clough Dam on  
11 Mill Creek, and dams on Butte Creek,  
12 Battle Creek, and Clear Creek);

13 (II) restores Clear Creek, Deep  
14 Creek, the Consumnes River, the San  
15 Joaquin River, or the Tuolumne  
16 River;

17 (III) restores fish and wildlife  
18 habitat in the Delta, San Pablo Bay,  
19 Suisun Bay, or the Yolo bypass;

20 (IV) designates not less than  
21 8,000 nor more than 12,000 acres of  
22 land as agricultural land, taking into  
23 consideration the needs of wildlife on  
24 that land;

1 (V) restores fish and wildlife  
2 habitat and hydraulic needs on  
3 Frank's Tract in the Delta;

4 (VI) improves salmon spawning  
5 and juvenile salmon survival in up-  
6 stream tributaries;

7 (VII) protects and restores the  
8 Sacramento River meander corridor  
9 as part of the Sacramento River Con-  
10 servation Area (including protection  
11 and restoration through revegetation,  
12 restoration of stream meander, and  
13 the purchase of a conservation ease-  
14 ment covering not less than 15,000  
15 acres);

16 (VIII) implements a program to  
17 control invasive species;

18 (IX) assesses the potential need  
19 for additional fish contamination,  
20 monitoring, and consumption  
21 advisories in the Bay-Delta watershed;

22 (X) assesses agency programs to  
23 reduce turbidity and sedimentation; or

1 (XI) improves dissolved oxygen  
2 conditions in the San Joaquin River  
3 near Stockton, California; or

4 (iii) a study to assess the feasibility  
5 of—

6 (I) enlarging Shasta Dam;

7 (II) providing new north-of-Delta  
8 storage;

9 (III) enlarging Los Vaqueros  
10 Reservoir;

11 (IV) providing new San Joaquin  
12 River storage;

13 (V) conducting a project or activ-  
14 ity concerning the San Luis Reservoir  
15 bypass;

16 (VI) conducting a project or ac-  
17 tivity concerning the Freeport regional  
18 project;

19 (VII) conducting 1 or more new  
20 ground water storage projects;

21 (VIII) conducting 1 or more  
22 south-of-Delta blending projects;

23 (IX) conducting 1 or more Bay-  
24 area blending and exchange projects;

25 or

1 (X) carrying out 1 or more  
2 south-of-Delta conveyance improve-  
3 ments.

4 (C) COST SHARING.—

5 (i) IN GENERAL.—The Federal share  
6 of the cost of the project or activity shall  
7 not exceed 50 percent.

8 (ii) AVAILABILITY.—Funds made  
9 available under paragraph (1) shall not be  
10 available for obligation until such time as  
11 the non-Federal share of the cost of the  
12 project or activity is made available for ob-  
13 ligation.

14 (iii) ACQUISITION OR CONSTRUCTION  
15 ACTIVITIES.—If the project or activity con-  
16 cerns an acquisition or construction activ-  
17 ity under the Bay-Delta Program, and the  
18 Federal share of the acquisition or con-  
19 struction costs is estimated to be, on com-  
20 pletion of the project or activity, less than  
21 \$10,000,000, funds made available under  
22 paragraph (1) may be expended for the ac-  
23 quisition or construction activity only if the  
24 activity—

1 (I) has been subject to environ-  
 2 mental review and approval as re-  
 3 quired under applicable Federal and  
 4 State law (including regulations); and  
 5 (II) has been certified by the  
 6 Bay-Delta Program Policy Group to  
 7 be consistent with the record of deci-  
 8 sion.

9 (3) ACQUISITION OF WATER AND AUTHORIZA-  
 10 TION OF CONSTRUCTION PROJECTS.—

11 (A) IN GENERAL.—There are authorized to  
 12 be appropriated such sums as are necessary to  
 13 pay the Federal share of the cost of carrying  
 14 out 1 or more projects and activities—

15 (i) to acquire water as provided in the  
 16 record of decision for the ecosystem res-  
 17 toration program and the environmental  
 18 water account;

19 (ii) to enlarge Shasta Dam, subject to  
 20 an analysis of the effects that the enlarge-  
 21 ment of Shasta Dam may have on the eli-  
 22 gibility of the McCloud River for designa-  
 23 tion as a component of the national wild  
 24 and scenic rivers system under the Wild

1 and Scenic Rivers Act (16 U.S.C. 1271 et  
2 seq.);

3 (iii) to enlarge Los Vaqueros Res-  
4 ervoir, subject to an affirmative vote of a  
5 majority of the voters in the Contra Costa  
6 Water District; and

7 (iv) to provide new in-Delta storage.

8 (B) FEDERAL SHARE.—The Federal share  
9 shall not exceed 50 percent.

10 (4) REPORTS ON CONSTRUCTION PROJECTS.—

11 (A) IN GENERAL.—The Secretary, in co-  
12 operation with the Federal agencies and the  
13 State agencies, shall submit to the authorizing  
14 committees a report on each construction  
15 project under this Act that includes—

16 (i) a description of the construction  
17 project;

18 (ii) a copy of each feasibility and  
19 operational study carried out concerning  
20 the construction project;

21 (iii) a copy of each final environ-  
22 mental impact study carried out con-  
23 cerning the construction project (including  
24 any associated reports);

1 (iv) a certification by the Bay-Delta  
2 Program Policy Group that the construc-  
3 tion project is consistent with the record of  
4 decision;

5 (v) a cost-benefit analysis of the con-  
6 struction project;

7 (vi) a description of benefits and bene-  
8 ficiaries of the construction project;

9 (vii) a cost allocation plan for the con-  
10 struction project; and

11 (viii) financing and repayment plans  
12 for the construction project.

13 (B) APPROVAL.—A report submitted under  
14 subparagraph (A) shall be considered to be ap-  
15 proved unless each authorizing committee dis-  
16 approves the report within 60 days after the  
17 date on which the authorizing committee re-  
18 ceives the report.

19 (5) BASELINE FUNDING LEVELS.—Funds au-  
20 thorized to be appropriated under paragraph (1)  
21 shall be in addition to the baseline funding levels es-  
22 tablished for projects and programs authorized as of  
23 the date of enactment of this Act under—



1 (A) the Central Valley Project Improve-  
 2 ment Act (title XXXIV of Public Law 102–575;  
 3 106 Stat. 4706); or

4 (B) any other Federal program concerning  
 5 Bay-Delta ecosystem protection and restoration.

6 **SEC. 5. WATER SUPPLY PROGRAM.**

7 (a) FINDINGS.—Congress finds that—

8 (1) long-term water supply planning for the  
 9 State is the responsibility of the State and political  
 10 subdivisions of the State;

11 (2) because of the significant and ongoing Fed-  
 12 eral participation in water development and environ-  
 13 mental regulation in the State, it is not practicable  
 14 to carry out comprehensive water supply planning  
 15 without Federal involvement; and

16 (3) the State has assumed leadership for the  
 17 conduct, as part of the California update, of a com-  
 18 prehensive assessment of State water demands and  
 19 resources that takes into consideration State, re-  
 20 gional, and local circumstances.

21 (b) FEDERAL ROLE.—

22 (1) IN GENERAL.—The Secretary and the agen-  
 23 cy heads may work with the State agencies in con-  
 24 ducting, as part of the California update, a com-  
 25 prehensive assessment of State water demands and

1 resources that takes into consideration State, re-  
 2 gional, and local circumstances.

3 (2) RECOMMENDATION OF ADDITIONAL  
 4 PROJECTS AND ACTIVITIES.—The Secretary, in co-  
 5 operation with the Federal agencies, the State agen-  
 6 cies, and regional and local agencies, shall rec-  
 7 ommend to the authorizing committees projects and  
 8 activities, in addition to projects and activities of the  
 9 Bay-Delta Program, that—

10 (A) facilitate the attainment of balanced  
 11 water supply and demand in the State;

12 (B) achieve increased water supply system  
 13 reliability, water quality, and water use effi-  
 14 ciency in the State;

15 (C) reduce ground water overdraft;

16 (D) improve water conveyance facilities in  
 17 the State;

18 (E) incorporate full consideration of—

19 (i) water transfers;

20 (ii) demand-side management alter-  
 21 natives;

22 (iii) water recycling;

23 (iv) conservation;

24 (v) desalination; and

1 (vi) other innovative ways of achieving  
2 balance and improvement in the use of  
3 water conveyance facilities;

4 (F) preserve, maintain, or enhance the en-  
5 vironmental benefits of the ecosystem restora-  
6 tion plan of the Bay-Delta Program; and

7 (G) subject all considered alternatives to a  
8 cost-benefit analysis that is reviewable by Con-  
9 gress.

10 (3) GRANTS FOR ASSESSMENT OF STATE  
11 WATER DEMANDS.—

12 (A) IN GENERAL.—Subject to subpara-  
13 graph (B), the Secretary shall develop and im-  
14 plement a grant program to pay the Federal  
15 share of the cost of conducting the comprehen-  
16 sive assessment of State water demands and re-  
17 sources referred to in paragraph (1) (including  
18 alternatives for meeting those demands).

19 (B) FEDERAL SHARE.—The Federal share  
20 shall not exceed 50 percent.

21 (C) CONDITION.—As a condition of the re-  
22 ceipt of a grant under this paragraph, a grant  
23 recipient shall make the results of each assess-  
24 ment conducted using grant funds available to  
25 the Federal agencies and the State agencies.

1           (4) GRANTS AND LOANS FOR OTHER  
2 PROJECTS.—

3           (A) IN GENERAL.—The Secretary, in co-  
4 operation with the Federal agencies and the  
5 State agencies, shall establish a competitive  
6 loan and grant program to assist local agencies  
7 in financing projects not included in the Bay-  
8 Delta Program that—

9                   (i) facilitate the attainment of bal-  
10 anced water supply and demand in the  
11 State;

12                   (ii) achieve increased water supply  
13 system reliability, water quality, and water  
14 use efficiency in the State;

15                   (iii) reduce ground water overdraft;

16                   (iv) improve water conveyance facili-  
17 ties in the State;

18                   (v) incorporate full consideration of—

19                           (I) water transfers;

20                           (II) demand-side management al-  
21 ternatives;

22                           (III) water recycling;

23                           (IV) conservation;

24                           (V) desalination; and

1 (VI) other innovative ways of  
2 achieving balance and improvement in  
3 the use of water conveyance facilities;  
4 (vi) preserve, maintain, or enhance  
5 the environmental benefits of the eco-  
6 system restoration plan of the Bay-Delta  
7 Program; and  
8 (vii) subject all considered alternatives  
9 to a cost-benefit analysis that is reviewable  
10 by Congress.

11 (B) FEDERAL SHARE.—The Federal share  
12 of the cost of carrying out a project described  
13 in subparagraph (A) shall not exceed 50 per-  
14 cent.

15 (5) FUNDING LEVEL RECOMMENDATIONS.—The  
16 Secretary, in cooperation with the Federal agencies  
17 and the State agencies and through the use of local  
18 and regional assessments, shall recommend to the  
19 authorizing committees levels of Federal funding as-  
20 sistance necessary to implement projects and activi-  
21 ties recommended under paragraph (2).

22 (6) REPORT.—Not later than June 30, 2005,  
23 the Secretary, in cooperation with the Federal agen-  
24 cies and the State agencies, shall submit to the au-  
25 thorizing committees a report that—

1                   (A) assesses the water supply program;  
2                   and

3                   (B) makes recommendations concerning  
4                   how to adequately fund projects and activities  
5                   recommended under paragraph (2).

6           (c) AUTHORIZATION OF APPROPRIATIONS.—There  
7 are authorized to be appropriated such sums as are  
8 necessary—

9                   (1) to fund Federal participation in the water  
10                  supply program;

11                  (2) to fund the grant program for local partici-  
12                  pation in the California update under subsection  
13                  (b)(3); and

14                  (3) to fund the grant and loan program for  
15                  local water projects under subsection (b)(4).

16 **SEC. 6. IMPLEMENTATION REQUIREMENTS.**

17           (a) IN GENERAL.—In carrying out this Act, the Sec-  
18 retary and the agency heads shall coordinate and manage  
19 the activities of the Federal agencies in a manner that  
20 is consistent with the ecosystem enhancement program,  
21 the Bay-Delta Program, and the water supply program.

22           (b) OBJECTIVE SCIENCE.—In carrying out this Act,  
23 the Secretary shall ensure, to the maximum extent prac-  
24 ticable, that—

1           (1) all aspects of the Bay-Delta Program and  
 2           the water supply program use credible and objective  
 3           scientific review; and

4           (2) decisions are based on the best available,  
 5           independently peer-reviewed information.

6           (c) REGULATORY COORDINATION.—In carrying out  
 7           this Act, the Secretary and the agency heads, in coordina-  
 8           tion with the Governor, shall develop a regulatory coordi-  
 9           nation and streamlining program to obtain, in accordance  
 10          with all applicable regulatory requirements, all permits  
 11          and approvals associated with the permitting or approval  
 12          of projects and activities under this Act.

13       **SEC. 7. BUDGET REPORTS AND SUBMISSIONS.**

14          (a) CROSSCUT BUDGET REPORTS.—Not later than  
 15          November 1, 2001, and annually thereafter through 2007,  
 16          the Director shall submit to the authorizing committees,  
 17          the Committee on Appropriations of the House of Rep-  
 18          resentatives, and the Committee on Appropriations of the  
 19          Senate, an interagency budget crosscut report that—

20               (1) describes the proposed Federal spending,  
 21               for the fiscal year in which the report is submitted  
 22               and for each subsequent fiscal year through 2008,  
 23               for the ecosystem enhancement program, the Bay-  
 24               Delta Program, and the water supply program; and

1           (2) identifies all expenditures that, as of the  
 2           date of the report, have been made by the Federal  
 3           Government and the State to achieve the objectives  
 4           of the ecosystem enhancement program, the Bay-  
 5           Delta Program, and the water supply program.

6           (b) FEDERAL AGENCY SUPPORT REPORTS.—To as-  
 7           sist in preparation of the reports under subsection (a),  
 8           each Federal agency shall submit to the Director, by such  
 9           date as the Director shall specify, an annual report that  
 10          describes—

11           (1) expenditures by the Federal agency during  
 12          the previous fiscal year to implement—

13                   (A) the record of decision;

14                   (B) the ecosystem enhancement program;

15                   (C) the water supply program; and

16                   (D) other programs affecting water man-  
 17          agement, ecosystem restoration, levee stability,  
 18          or water quality in the State; and

19           (2) proposed expenditures by the Federal agen-  
 20          cy to implement programs described in subpara-  
 21          graphs (A) through (C) of paragraph (1) for—

22                   (A) the following fiscal year; and

23                   (B) for each subsequent fiscal year  
 24          through fiscal year 2008.



1       (c) BUDGET SUBMISSIONS.—Not later than the date  
2 of submission of the budget under section 1105 of title  
3 31, United States Code, for each of fiscal years 2002  
4 through 2008, the Secretary, in cooperation with the agen-  
5 cy heads, shall submit to the authorizing committees, the  
6 Committee on Appropriations of the House of Representa-  
7 tives, and the Committee on Appropriations of the  
8 Senate—

9           (1) a budget for the proposed projects to be  
10 carried out in the fiscal year with the Federal funds  
11 made available under this Act; and

12          (2) a report that describes all projects sup-  
13 ported by Federal funds made available under this  
14 Act for the fiscal year that includes, for each such  
15 project, a summary of the recommendations pro-  
16 vided by agencies, entities, and members of the pub-  
17 lic commenting on the project.

18 **SEC. 8. COMPLIANCE WITH FEDERAL AND STATE LAW.**

19       Nothing in this Act preempts or otherwise affects any  
20 Federal or State law.

