

111TH CONGRESS
1ST SESSION

H. R. 3481

To provide for the protection of the quality of water in the Lower Colorado River and the development and implementation of a comprehensive plan for the prevention and elimination of pollution in the Lower Colorado River and the maintenance of a healthy Lower Colorado River ecosystem.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2009

Mr. GRIJALVA introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for the protection of the quality of water in the Lower Colorado River and the development and implementation of a comprehensive plan for the prevention and elimination of pollution in the Lower Colorado River and the maintenance of a healthy Lower Colorado River ecosystem.

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 “Lower Colorado River
5 Protection Act”.

1 **SEC. 2. TABLE OF CONTENTS.**

2 The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Findings.
- Sec. 4. Declaration of goals.
- Sec. 5. Definitions.

TITLE I—PLAN DEVELOPMENT

- Sec. 101. Lower Colorado River Management Conference.
- Sec. 102. Lower Colorado River protection program.
- Sec. 103. Environmental and pollution control research program.
- Sec. 104. Lower Colorado River pollution elimination and ecosystem restoration plan.
- Sec. 105. Report on the plan to Congress.

TITLE II—PLAN IMPLEMENTATION

- Sec. 201. Management.
- Sec. 202. Qualified projects.
- Sec. 203. Encouraging involvement of other programs.
- Sec. 204. Public information program.
- Sec. 205. Report.
- Sec. 206. Compliance with State and Federal law.

3 **SEC. 3. FINDINGS.**

4 The Congress finds the following:

5 (1) Safe supplies of water are fundamental to
6 the health, economy, security, and ecology of the
7 United States.

8 (2) Research, development, and implementation
9 of means and methods to protect the quality of the
10 water resources of the United States will help ensure
11 the continued existence of safe water to support—

12 (A) increasing populations;

13 (B) economic growth;

14 (C) irrigated agriculture and a safe food
15 supply; and

1 (D) the protection of aquatic ecosystems.

2 (3) The Colorado River is a multifaceted re-
3 source of the United States because—

4 (A) the Colorado River is a natural won-
5 der, a national treasure, and the lifeblood of the
6 Southwest as it provides drinking water for
7 more than 25,000,000 people and irrigates
8 1,800,000 acres of land, watering 15 percent of
9 United States crops and over 80 percent of win-
10 ter vegetables consumed in the United States;

11 (B) the Colorado River is a major water
12 recreation destination for boaters, fishermen,
13 skiers, swimmers, hikers, and others with the
14 Grand Canyon receiving approximately
15 4,500,000 visitors per year, the Glen Canyon
16 National Recreation Area receiving approxi-
17 mately 2,000,000 visitors per year, and Lake
18 Mead National Recreation Area receiving ap-
19 proximately 8,000,000 visitors per year; and

20 (C) the Colorado River and its tributaries
21 form a unique habitat that supports many rare
22 and unusual species, including 36 native fish
23 species (not including 2 that have already gone
24 extinct), of which 25 species are found only in
25 the Colorado River and its tributaries, 11 spe-

1 cies are classified as endangered, 4 species are
2 classified as threatened, and 5 species are clas-
3 sified as sensitive.

4 (4) The Colorado River is endangered be-
5 cause—

6 (A) the habitat along the Colorado River
7 has been altered by dams, diversions, habitat
8 loss and degradation, chemical pollution, and
9 nonnative plant and animal species (including
10 62 nonnative species of fish), such that it is no
11 longer the warm, silt-laden, sometimes turbu-
12 lent, and ecologically balanced home to which
13 native species are adapted, which has reduced
14 the populations and ranges of many native spe-
15 cies;

16 (B) male fish in Las Vegas Bay of Lake
17 Mead have relatively high levels of endocrine
18 disrupting compounds (EDCs), low levels of sex
19 hormones, and shrunken testes associated with
20 exposure to EDCs in effluent discharged into
21 Las Vegas Wash and making its way into the
22 lake, and this effluent will soon be directly dis-
23 charged into Lake Mead instead of Las Vegas
24 Wash;

1 (C) the dangers of increasing levels of
2 EDCs are exemplified by the condition of the
3 San Francisco Bay Estuary, the source of
4 drinking water for 25,000,000 Californians,
5 where fish populations are crashing and young
6 fish are born with brain, liver, and other de-
7 formities associated with high levels of environ-
8 mental exposure to EDCs, which are making
9 their way into people as evidenced by levels of
10 the fire retardant polybrominated diphenyl
11 ether reaching up to 100 times normal con-
12 centrations in the breast milk of Bay Area
13 women;

14 (D) nitrate pollution from degrading septic
15 tanks presents a current and continuing threat
16 to the health of the Lower Colorado River and
17 the ecosystems and the health of the people
18 that depend on it;

19 (E) nitrate pollution also threatens the
20 beneficial use of recreation along the Lower
21 Colorado River because excess nitrates cause
22 algal blooms, which die and decompose,
23 deoxygenating the water and killing large num-
24 bers of fish;

1 (F) run-off and return flows from agricul-
2 tural lands into the Lower Colorado River and
3 adjacent aquifers and waterways are rich in ni-
4 trates and sediment and high in salinity;

5 (G) a number of chemicals in addition to
6 nitrates are current or emerging threats to the
7 Lower Colorado River, including uranium and
8 other uranium mining by-products, selenium,
9 hexavalent chromium, perchlorate, mercury,
10 EDCs, pharmaceuticals, and personal care
11 products;

12 (H) known chemical and radioactive
13 threats to the river include a 100-foot high, 130
14 acre, 10.5 million ton pile of uranium mill
15 tailings located 750 feet from the river near
16 Moab, Utah, and being remediated by the De-
17 partment of Energy;

18 (I) thousands of new mining claims, mostly
19 for uranium, on Federal lands adjacent to the
20 Grand Canyon are an emerging threat to the
21 Colorado River;

22 (J) known chemical threats to the river in-
23 clude 2 plumes of perchlorate rocket fuel near
24 Henderson, Nevada, now being voluntarily re-
25 mediated by the land owners, but previously

1 making its way into lettuce grown over 200
2 miles away near Yuma, Arizona;

3 (K) known chemical threats to the river in-
4 clude 2 plumes of hexavalent chromium near
5 Topock, California, and Lake Havasu City, Ari-
6 zona, being voluntarily remediated by the land
7 owners;

8 (L) quagga mussels, tamarisk, and other
9 invasive species are disrupting ecosystems and
10 threatening infrastructure and water quality in
11 the Lower Colorado River; and

12 (M) other types of contaminants and
13 sources of pollution are a present danger to the
14 Lower Colorado River, including pathogens,
15 stormwater run-off, and salinity.

16 (5) Demands on and needs of the Colorado
17 River that are increasing stresses on the ecosystems
18 and water resources of the Lower Colorado River are
19 increasing because—

20 (A) the population of California is pro-
21 jected to increase from 39,000,000 in 2010 to
22 almost 60,000,000 in 2050, and the population
23 of Arizona is projected to increase from
24 7,000,000 in 2010 to almost 13,000,000 in
25 2050;

1 (B) population along the Lower Colorado
2 River is expected to grow from its current
3 290,000 to 480,000 by 2025;

4 (C) more than \$2 billion is needed by 2025
5 to build the wastewater treatment plants nec-
6 essary to ameliorate the danger to the Lower
7 Colorado River from septic tanks; and

8 (D) according to the most recent Intergov-
9 ernmental Panel on Climate Change report, the
10 average annual temperature will increase by
11 over 6 degrees Fahrenheit and annual run-off
12 will decrease by 20 percent or more over much
13 of the Lower Colorado River Basin by the end
14 of the century.

15 **SEC. 4. DECLARATION OF GOALS.**

16 The goals of this Act are as follows:

17 (1) To restore and maintain the ecosystems and
18 the chemical, biological, and physical integrity of the
19 waters of the Lower Colorado River to attain water
20 quality that—

21 (A) provides for the protection and propa-
22 gation of plants, fish, shellfish, wildlife, and a
23 balanced population of natural, safe microorga-
24 nisms;

1 (B) provides for recreation in and on the
2 water; and

3 (C) protects the health of the millions of
4 citizens of the United States who drink the
5 water of the Lower Colorado River and eat the
6 produce grown with water withdrawn from the
7 Lower Colorado River.

8 (2) To reduce the discharge of toxic pollutants
9 into the Lower Colorado River to below toxic
10 amounts and to remediate existing sources of toxic
11 pollutants.

12 (3) To develop and implement programs in an
13 expeditious manner for the control of nonpoint
14 sources of pollution to enable the goals of this Act
15 to be met through the control of both point and
16 nonpoint sources of pollution.

17 (4) To complete research and development
18 based on science and engineering to enable the goals
19 of this Act to be met.

20 (5) To empower the Environmental Protection
21 Agency to take the lead in the effort to meet these
22 goals, working with other Federal agencies and
23 State and local authorities.

1 **SEC. 5. DEFINITIONS.**

2 For the purposes of this Act, the following definitions
3 apply:

4 (1) ADMINISTRATOR.—The term “Adminis-
5 trator” means the Administrator of the Environ-
6 mental Protection Agency.

7 (2) AGENCY.—The term “Agency” means the
8 Environmental Protection Agency.

9 (3) CRRSCo.—The term “CRRSCo” means
10 the Colorado River Regional Sewer Coalition, an Ari-
11 zona nonprofit corporation whose members are cit-
12 ies, towns, counties, Indian tribes, and political sub-
13 divisions in the Lower Colorado River Basin which
14 have the financial and management responsibilities
15 for the provision of wastewater services within their
16 jurisdictions.

17 (4) FEDERAL AGENCIES.—The term “Federal
18 agencies” includes the Environmental Protection
19 Agency, the Department of the Interior (including
20 the Bureau of Reclamation, the United States Fish
21 and Wildlife Service, the Bureau of Land Manage-
22 ment, the National Park Service, and the United
23 States Geological Survey), the Army Corps of Engi-
24 neers, the Department of Commerce (including the
25 National Marine Fisheries Service), the Department
26 of Agriculture (including the Natural Resources

1 Conservation Service and the Forest Service), and
2 the Western Area Power Administration.

3 (5) FEDERALLY RECOGNIZED INDIAN
4 TRIBES.—The term “federally recognized Indian
5 tribes” means—

6 (A) the Colorado River Indian Tribes of
7 the Colorado River Indian Reservation, Arizona
8 and California;

9 (B) the Chemehuevi Indian Tribe of the
10 Chemehuevi Reservation, California;

11 (C) the Fort Mohave Indian Tribe of Ari-
12 zona, California, and Nevada;

13 (D) the Quechan Tribe of the Fort Yuma
14 Indian Reservation; and

15 (E) the Cocopah Tribe of Arizona.

16 (6) LOWER COLORADO RIVER.—The term
17 “Lower Colorado River” means that portion of the
18 Colorado River downstream from Lees Ferry, as de-
19 fined in the Colorado River Compact of 1922, and
20 within the United States.

21 (7) LOWER COLORADO RIVER BASIN.—The
22 term “Lower Colorado River Basin” means the geo-
23 graphic areas in the States of Arizona, California,
24 and Nevada that are hydrologically connected to the
25 mainstem of the Lower Colorado River.

1 (8) MANAGEMENT CONFERENCE.—The term
2 “Management Conference” means the Lower Colo-
3 rado River Management Conference established in
4 section 101.

5 (9) PLAN.—The term “Plan” means the Lower
6 Colorado River Pollution Elimination and Ecosystem
7 Restoration Plan described in section 104;

8 (10) PROGRAM.—The term “Program” means
9 the Lower Colorado River Protection Program estab-
10 lished in section 102.

11 (11) QUALIFIED PROJECT.—The term “quali-
12 fied project” means a project to be carried out in
13 the Lower Colorado River Basin that—

14 (A) monitors or evaluates the release or
15 discharge of pollutants in the Lower Colorado
16 River Basin; or

17 (B) prevents, reduces, or eliminates pollu-
18 tion in the Lower Colorado River or restores or
19 maintains the ecosystem health of the Lower
20 Colorado River in accordance with the Plan;
21 and

22 (C) does not include the purchase of water
23 for the purpose of flow regulation in the Lower
24 Colorado River or its tributaries.

1 **TITLE I—PLAN DEVELOPMENT**

2 **SEC. 101. LOWER COLORADO RIVER MANAGEMENT CON-**
3 **ERENCE.**

4 (a) ESTABLISHMENT.—There is established a Lower
5 Colorado River Management Conference to develop the
6 Lower Colorado River Pollution Elimination and Eco-
7 system Restoration Plan.

8 (b) MEMBERSHIP.—The members of the Manage-
9 ment Conference shall be comprised of the following:

10 (1) The Governors of the States of California,
11 Arizona, and Nevada or their designees.

12 (2) 1 representative from each of the following
13 Federal agencies:

14 (A) The Agency.

15 (B) The Bureau of Reclamation.

16 (C) The Western Area Power Administra-
17 tion.

18 (D) The National Park Service.

19 (E) The United States Fish and Wildlife
20 Service.

21 (F) The United States Geological Survey.

22 (3) The chairperson of CRRSCo.

23 (4) 5 members of the board of directors of
24 CRRSCo that represent local governments, federally
25 recognized Indian tribes, and sewer districts within

1 the Lower Colorado River Basin, chosen by the
2 board of directors of the CRRSCo.

3 (5) 1 person representing any federally recog-
4 nized Indian tribe that is not represented on the
5 board of directors of CRRSCo.

6 (6) Not more than a total of 18 representatives
7 appointed by the Governors of the States of Cali-
8 fornia, Arizona, and Nevada, comprised of the fol-
9 lowing:

10 (A) 1 person representing each of the
11 State environmental protection agencies of Ari-
12 zona, California, and Nevada, for a total of 3
13 representatives.

14 (B) 1 person representing each of the
15 State water resources agencies of Arizona, Cali-
16 fornia, and Nevada, for a total of 3 representa-
17 tives.

18 (C) Not more than 6 representatives of
19 local governments having jurisdiction over any
20 land or water within the Lower Colorado River
21 Basin and that are not represented on the
22 board of directors of CRRSCo.

23 (D) 2 persons representing affected indus-
24 tries.

1 (E) 2 persons representing nongovern-
2 mental organizations.

3 (F) 2 persons representing the general
4 public.

5 (7) 1 person representing the Colorado River
6 Energy Distributors Association.

7 (8) 1 person representing the Colorado River
8 Commission of Nevada.

9 (9) 1 person representing the Colorado River
10 Water Users Association.

11 (c) TECHNICAL ADVISORY COMMITTEE.—Not later
12 than 120 days after the date of enactment of this Act,
13 the Management Conference shall appoint a Technical Ad-
14 visory Committee consisting of officials of Federal agen-
15 cies, the State governments of Arizona, California, and
16 Nevada, the governments of political subdivisions of such
17 States, and private research institutions to ensure the
18 input of the technical expertise of those agencies and au-
19 thorities in developing and implementing the Plan.

20 **SEC. 102. LOWER COLORADO RIVER PROTECTION PRO-**
21 **GRAM.**

22 (a) ESTABLISHMENT.—The Lower Colorado River
23 Protection Program is hereby established within the Agen-
24 cy Region 9 office.

1 (b) DIRECTOR; STAFF.—The Program shall be head-
 2 ed by a Director and shall be staffed by not less than 2
 3 persons in addition to the Director.

4 (c) PURPOSE.—The Program shall provide staff and
 5 support services to the Management Conference and the
 6 Technical Advisory Committee.

7 **SEC. 103. ENVIRONMENTAL AND POLLUTION CONTROL RE-**
 8 **SEARCH PROGRAM.**

9 (a) RESEARCH PROGRAM.—

10 (1) ESTABLISHMENT.—The Administrator, act-
 11 ing through the Director of the Program, shall es-
 12 tablish a multidisciplinary environmental research
 13 program for the Lower Colorado River.

14 (2) GRANTS.—

15 (A) IN GENERAL.—For the purposes of
 16 carrying out this subsection, the Administrator
 17 may make grants to State water pollution con-
 18 trol agencies, other public or nonprofit agencies,
 19 institutions, organizations, and individuals to
 20 conduct environmental and pollution control
 21 projects in the Lower Colorado River Basin.

22 (B) LIMITATIONS.—

23 (i) AMOUNT FOR LESS THAN 45 PER-
 24 CENT COST SHARE.—The amount of any
 25 such grant for which the non-Federal con-

1 tribution to the total project cost is less
2 than 45 percent may not exceed \$50,000
3 per year.

4 (ii) OTHER.—The amount of any such
5 grant for which the non-Federal contribu-
6 tion to the total project cost is 45 percent
7 or more may not exceed \$100,000 per
8 year.

9 (iii) IN-KIND CONTRIBUTIONS.—The
10 value of in-kind contributions may be in-
11 cluded in the calculation of non-Federal
12 contributions to project costs.

13 (b) PRIORITY.—In selecting projects to carry out the
14 program established under subsection (a), the Adminis-
15 trator shall give priority to a project that meets one or
16 more of the following:

17 (1) Monitors emerging pollution problems that
18 pose a potentially high level of risk to human health
19 in the judgment of the Administrator or studies
20 methods of remediating such problems in the Lower
21 Colorado River. Projects can address emerging pol-
22 lution problems in the Upper Colorado River that
23 might reasonably be expected to pose a threat to the
24 Lower Colorado River.

1 (2) Monitors contamination by or studies meth-
2 ods of remediating contamination by pharmaceutical
3 and personal care products and endocrine disrupting
4 compounds in the Lower Colorado River, the effects
5 of these compounds on the ecosystem of the Lower
6 Colorado River, and the risk to human health due
7 the presence of these contaminants in the Lower
8 Colorado River.

9 (3) Evaluates the effect of, or studies methods
10 of preventing, reducing, or eliminating, nonpoint
11 source pollution, including increased sedimentation,
12 due to enhanced stormwater run-off created by
13 human disturbance of the natural landscape, includ-
14 ing from agricultural activities, mining activities,
15 construction activities, and man-made impermeable
16 surfaces.

17 (4) Monitors the distribution of, or studies
18 means of reducing or eliminating, quagga mussels in
19 the Lower Colorado River or any other organism or
20 pollutant that threatens infrastructure in and along
21 the Lower Colorado River.

22 (5) Uses an innovative approach, technique, or
23 technology that may provide greater environmental
24 benefits or equivalent environmental benefits at a re-
25 duced cost.

1 **SEC. 104. LOWER COLORADO RIVER POLLUTION ELIMI-**
2 **NATION AND ECOSYSTEM RESTORATION**
3 **PLAN.**

4 (a) IN GENERAL.—Not later than 2 years after the
5 date of enactment of this Act, the Management Con-
6 ference shall publish the Lower Colorado River Pollution
7 Elimination and Ecosystem Restoration Plan, which shall
8 be a comprehensive pollution prevention, reduction, elimi-
9 nation, and ecosystem restoration plan for the Lower Colo-
10 rado River.

11 (b) CONTENTS.—The Plan shall—

12 (1) identify corrective actions and compliance
13 schedules addressing point and nonpoint sources of
14 nitrate pollution and other pollution necessary to
15 maintain the chemical, physical, and biological integ-
16 rity of water quality;

17 (2) incorporate environmental management con-
18 cepts and programs established in State and Federal
19 plans and programs in effect at the time of the de-
20 velopment of the Plan;

21 (3) clarify the duties of Federal and State
22 agencies in pollution prevention and control activi-
23 ties;

24 (4) describe the methods and schedules for
25 funding of programs, activities, and projects identi-

1 fied in the Plan, including the use of Federal funds
2 and other sources of funds;

3 (5) include a strategy for pollution prevention
4 and management practices to reduce the amount of
5 pollution generated in the Lower Colorado River
6 Basin and maintain the ecosystem health of the
7 Lower Colorado River; and

8 (6) be reviewed and revised, as necessary, at
9 least once every 5 years in consultation with the Ad-
10 ministrators and other appropriate Federal agencies.

11 (c) PUBLIC REVIEW.—

12 (1) IN GENERAL.—The Administrator, in co-
13 operation with the Management Conference, shall
14 provide for public review and comment on the draft
15 Plan.

16 (2) PUBLIC MEETINGS.—At a minimum, the
17 Management Conference shall conduct 1 public
18 meeting in each of Arizona, California, and Nevada
19 to hear comments on the draft Plan.

20 (d) APPROVAL OR DISAPPROVAL OF THE PLAN.—

21 (1) DEADLINE.—

22 (A) IN GENERAL.—Not later than 120
23 days after the publication of the Plan, the Ad-
24 ministrators shall either approve or disapprove
25 the Plan.

1 (B) PORTION.—The Administrator may
2 approve a portion of the Plan under this para-
3 graph.

4 (C) CONSIDERED APPROVED.—If the Ad-
5 ministrator does not disapprove the Plan or a
6 portion thereof within the 120-day period, the
7 Plan or portion thereof shall be considered ap-
8 proved for the purposes of this subsection.

9 (2) PROCEDURE FOR DISAPPROVAL.—If, after
10 notice and opportunity for public comment and con-
11 sultation with the appropriate Federal and State
12 agencies and other interested persons, the Adminis-
13 trator determines that—

14 (A) the Plan or any portion thereof does
15 not meet the requirements of subsection (b) or
16 is not likely to satisfy, in whole or in part, the
17 goals and requirements of this Act;

18 (B) adequate authority does not exist or
19 adequate resources are not available to imple-
20 ment the Plan or portion thereof;

21 (C) the schedule for implementing the Plan
22 or portion thereof is not sufficiently expeditious;
23 or

24 (D) the practices and measures proposed
25 in the Plan or portion thereof are not adequate

1 to prevent, reduce, or eliminate pollution in the
2 Lower Colorado River or restore the ecosystem
3 of the Lower Colorado River in whole or in
4 part;

5 then Administrator shall within 120 days of the pub-
6 lication of the Plan notify the Management Con-
7 ference of any revisions or modifications necessary
8 to obtain approval. The Management Conference
9 shall have an additional 90 days to submit its re-
10 vised Plan, and the Administrator shall approve or
11 disapprove such revised Plan within 90 days after
12 receipt.

13 (e) GRANT ASSISTANCE FOR SUPPORT OF PLAN DE-
14 VELOPMENT.—

15 (1) IN GENERAL.—The Administrator may, in
16 consultation with the Management Conference, make
17 grants to State, interstate, and regional water pollu-
18 tion control agencies, federally recognized Indian
19 tribes, local governments, and public or nonprofit
20 agencies, institutions, and organizations for assisting
21 with research, surveys, studies, modeling, and tech-
22 nical and supporting work necessary for the develop-
23 ment of the Plan.

24 (2) RESTRICTION.—Only proposals whose work
25 product can reasonably be expected to contribute di-

1 rectly to the development of the Plan may be funded
2 under this section.

3 (3) COST-SHARING.—The amount of grants
4 made under this section for a fiscal year shall not
5 exceed 65 percent of the costs of such research, sur-
6 vey, study, modeling, and technical and supporting
7 work and shall be made available on the condition
8 that the non-Federal share of the costs of such re-
9 search, survey, study, modeling, and technical and
10 supporting work may include the value of in-kind
11 services contributed at any time after January 1,
12 2004, by a non-Federal sponsor.

13 (4) ADMINISTRATION.—The Administrator may
14 establish such requirements for the administration of
15 grants as the Administrator determines appropriate.

16 **SEC. 105. REPORT ON THE PLAN TO CONGRESS.**

17 Within 60 days after approval of the Plan, the Ad-
18 ministrator shall submit to Congress a copy of the Plan
19 and a comprehensive report that describes the activities
20 of the Management Conference and the cost of the devel-
21 opment and approval of the Plan.

TITLE II—PLAN IMPLEMENTATION

SEC. 201. MANAGEMENT.

(a) COORDINATION.—After approval of the Plan, the Director of the Program shall—

(1) in cooperation with CRRSCo and the appropriate Federal, State, local, and tribal agencies, develop and carry out qualified projects to implement the Plan;

(2) track schedules, finances, and performance of the implementation of the Plan;

(3) provide multiagency oversight and coordination of Lower Colorado River protection activities to ensure balance and integration in the implementation of the Plan;

(4) coordinate actions of the Program with the actions of other Federal agencies, State agencies, tribal agencies, and local governments to ensure the input of those agencies and governments in developing and implementing water quality strategies and to obtain the support of such agencies and governments in achieving the objectives of the Plan;

(5) develop interagency cross-cut budgets and a comprehensive finance plan to allocate costs; and

(6) develop annual reports.

1 (b) PUBLIC PARTICIPATION.—In implementing the
2 Plan, the Director of the Program shall coordinate with
3 Federal, State, and tribal agencies, local governments, and
4 the public to seek input on program elements such as plan-
5 ning, design, technical assistance, and development of peer
6 review science programs.

7 (c) SCIENCE.—In implementing the Plan, the Direc-
8 tor of the Program shall seek to ensure, to the maximum
9 extent practicable, that all major aspects of implementing
10 the Plan are subjected to credible and objective scientific
11 review and that major decisions are based upon the best
12 available scientific information.

13 **SEC. 202. QUALIFIED PROJECTS.**

14 (a) AUTHORITY.—The Administrator, acting through
15 the Director of the Program, may carry out qualified
16 projects in accordance with priorities set by the Adminis-
17 trator in accordance with this Act.

18 (b) PRIORITY.—In selecting qualified projects to
19 carry out under this Act, the Administrator shall give pri-
20 ority to a qualified project that—

21 (1) addresses pollution problems that pose a po-
22 tentially high level of risk to human health in the
23 judgment of the Administrator;

24 (2) has been identified in the Plan and is ready
25 to be implemented; or

1 (3) will use an innovative approach, technology,
2 or technique that may provide greater environmental
3 benefit or equivalent environmental benefit at re-
4 duced cost.

5 (c) LIMITATION.—The Administrator may not carry
6 out a project under this section if—

7 (1) an evaluation of alternatives for the area of
8 concern has not been conducted, including a review
9 of the short-term and long-term effects of the alter-
10 natives on human health and the environment; or

11 (2) the Administrator determines that the area
12 of concern is likely to suffer increased contamination
13 from existing sources of pollutants following the
14 completion of the project.

15 (d) NON-FEDERAL COST SHARE.—

16 (1) NON-FEDERAL COST SHARE.—The non-
17 Federal share of the cost of a qualified project car-
18 ried out under this section shall be not less than 45
19 percent.

20 (2) ABILITY TO PAY.—Notwithstanding para-
21 graph (1), the Administrator may reduce the non-
22 Federal share of the cost of a qualified project car-
23 ried out under this section to not less than 35 per-
24 cent based on a determination by the Administrator
25 that a non-Federal interest is unable to pay. The de-

1 termination of inability to pay shall not affect the
2 requirements of paragraph (4). In making such a
3 determination, the Administrator—

4 (A) shall consider—

5 (i) per capita income data for the ap-
6 propriate political division or divisions in
7 which the project is to be located; and

8 (ii) the per capita non-Federal cost of
9 construction of the project for the appro-
10 priate political division or divisions in
11 which the project is to be located; and

12 (B) may consider additional criteria relat-
13 ing to the non-Federal interest's financial abil-
14 ity to carry out its cost-sharing responsibilities,
15 to the extent that the application of such cri-
16 teria does not eliminate areas from eligibility
17 for a reduction in the non-Federal share.

18 (3) IN-KIND CONTRIBUTIONS.—The non-Fed-
19 eral share of the cost of a qualified project carried
20 out under this section may include the value of in-
21 kind services contributed at any time after January
22 1, 2001, by a non-Federal sponsor, including any in-
23 kind service performed under an administrative
24 order on consent or judicial consent decree, but not

1 including any in-kind services performed under a
2 unilateral administrative order or court order.

3 (4) OPERATION AND MAINTENANCE.—

4 (A) IN GENERAL.—The non-Federal share
5 of the cost of the operation and maintenance of
6 a qualified project carried out under this sec-
7 tion shall be 100 percent.

8 (B) AGREEMENTS.—The Administrator
9 may require the appropriate non-Federal inter-
10 ests to enter into such agreements as the Ad-
11 ministrator deems necessary to ensure the prop-
12 er operation and maintenance of any qualified
13 project, and the Administrator may not carry
14 out any qualified project for which the appro-
15 priate non-Federal interests have not dem-
16 onstrated to the satisfaction of the Adminis-
17 trator that they possess the resources for prop-
18 er operation and maintenance of the qualified
19 project.

20 (e) MAINTENANCE OF EFFORT.—The Administrator
21 may not carry out a qualified project under this section
22 unless the non-Federal sponsor enters into such agree-
23 ments with the Administrator as the Administrator may
24 require to ensure that the non-Federal sponsor will main-
25 tain its aggregate expenditures from all other sources for

1 programs that will help achieve the goals of this Act in
2 the area of concern in which the qualified project is located
3 at or above the average level of such expenditures in its
4 2 fiscal years preceding the date on which the project is
5 initiated.

6 (f) COORDINATION.—In carrying out a qualified
7 project under this section, the Administrator shall coordi-
8 nate with the Secretary of the Interior, the Secretary of
9 the Army, and with the Governors of States in which
10 projects are located to ensure that Federal and State as-
11 sistance for the prevention, reduction, and elimination of
12 pollution in areas of concern is used as efficiently as pos-
13 sible.

14 **SEC. 203. ENCOURAGING INVOLVEMENT OF OTHER PRO-**
15 **GRAMS.**

16 (a) MAXIMIZING PROGRAM BENEFITS.—In order to
17 maximize the amount of pollution prevention, elimination,
18 and ecosystem restoration in the Lower Colorado River
19 Basin, the Administrator is directed, through the Pro-
20 gram, to develop a list of pre-existing Federal programs
21 that are authorized to conduct projects that fit the re-
22 quirements to be considered qualified projects under this
23 Act and to work with the agencies, departments, and of-
24 fices responsible for such Federal programs to avoid com-

1 mitting resources authorized under this Act to projects if
2 other programs will implement them.

3 (b) TITLE XVI ELIGIBILITY.—The Reclamation
4 Wastewater and Groundwater Study and Facilities Act
5 (43 U.S.C. 390h et seq.; Public Law 102–575) is amended
6 by adding at the end the following:

7 **“SEC. 1618. LOWER COLORADO RIVER WATER QUALITY**
8 **PROTECTION PROJECTS.**

9 “(a) IN GENERAL.—The Secretary, in cooperation
10 with the Colorado River Regional Sewer Coalition or other
11 regional or local entities, shall participate in the planning,
12 design, and construction of systems for the treatment of
13 municipal wastewater.

14 “(b) COST SHARE.—The Federal share of the cost
15 of the project authorized by this section shall not exceed
16 25 percent of the total cost of the project.

17 “(c) IN-KIND CONTRIBUTIONS.—The non-Federal
18 share of the cost of a project carried out under this sub-
19 section may include the value of in-kind services contrib-
20 uted at any time after January 1, 2001, by a non-Federal
21 sponsor, including any in-kind service performed under an
22 administrative order on consent or judicial consent decree,
23 but not including any in-kind services performed under a
24 unilateral administrative order or court order.

1 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
2 is authorized to be appropriated \$20,000,000 to remain
3 available until expended.”.

4 **SEC. 204. PUBLIC INFORMATION PROGRAM.**

5 The Administrator, acting through the Director of
6 the Program and in coordination with States, federally
7 recognized Indian tribes, local governments, and other en-
8 tities, shall carry out a public information program to pro-
9 vide information relating to the Plan and its implementa-
10 tion.

11 **SEC. 205. REPORT.**

12 Not later than December 31, 2011, and annually
13 thereafter, the Administrator shall submit to Congress a
14 comprehensive report that describes the costs, accomplish-
15 ments, and outcomes of the activities carried out in the
16 implementation of the Plan. The report shall include a list
17 of rejected project proposals with explanations for their
18 rejection.

19 **SEC. 206. COMPLIANCE WITH STATE AND FEDERAL LAW.**

20 Nothing in this Act preempts the authority of any
21 Federal or State agency, under any State or Federal law,
22 to prevent, reduce, or eliminate pollution in the Lower Col-
23 orado River or to restore or maintain the ecosystem health
24 of the Lower Colorado River or the authority of a Federal

- 1 agency that is being used or may be used to apportion,
- 2 release, and deliver Lower Colorado River water.

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