

114TH CONGRESS
2D SESSION

H. R. 4686

To amend Public Law 103–434 to authorize Phase III of the Yakima River Basin Water Enhancement Project for the purposes of improving water management in the Yakima River basin, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 2016

Mr. REICHERT (for himself and Mr. NEWHOUSE) introduced the following bill;
which was referred to the Committee on Natural Resources

A BILL

To amend Public Law 103–434 to authorize Phase III of the Yakima River Basin Water Enhancement Project for the purposes of improving water management in the Yakima River basin, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Yakima River Basin
5 Water Enhancement Project Phase III Act”.

1 **SEC. 2. MODIFICATION OF TERMS, PURPOSES, AND DEFINI-**
2 **TIONS.**

3 (a) MODIFICATION OF TERMS.—Title XII of Public
4 Law 103–434 (108 Stat. 4550) is amended—

5 (1) by striking “Yakama Indian” each place it
6 appears (except section 1204(g)) and inserting
7 “Yakama”; and

8 (2) by striking “Superintendent” each place it
9 appears and inserting “Manager”.

10 (b) MODIFICATION OF PURPOSES.—Section 1201 of
11 Public Law 103–434 (108 Stat. 4550) is amended—

12 (1) by striking paragraph (1) and inserting the
13 following:

14 “(1) to protect, mitigate, and enhance fish and
15 wildlife and the recovery and maintenance of self-
16 sustaining harvestable populations of fish and other
17 aquatic life, both anadromous and resident species,
18 in the Yakima Basin through—

19 “(A) improved water management and the
20 constructions of fish passage at storage and di-
21 version dams, as authorized under the Hoover
22 Power Plant Act of 1984 (43 U.S.C. 619 et
23 seq.);

24 “(B) improved instream flows and water
25 supplies;

1 “(C) improved water quality, watershed,
2 and ecosystem function;

3 “(D) protection and enhancement of wet-
4 lands; and

5 “(E) other appropriate means of habitat
6 improvement;”;

7 (2) in paragraph (2), by inserting “, municipal,
8 industrial, and domestic water supply and use pur-
9 poses, especially during drought years, including re-
10 ducing the frequency and severity of water supply
11 shortages for proratable irrigation entities” before
12 the semicolon at the end;

13 (3) by striking paragraph (4);

14 (4) by redesignating paragraph (3) as para-
15 graph (4);

16 (5) by inserting after paragraph (2) the fol-
17 lowing:

18 “(3) to authorize the Secretary to make water
19 available for purchase or lease for meeting munic-
20 ipal, industrial, and domestic water supply pur-
21 poses;”;

22 (6) by redesignating paragraphs (5) and (6) as
23 paragraphs (6) and (8), respectively;

24 (7) by inserting after paragraph (4) (as so re-
25 designated) the following:

1 “(5) to realize sufficient water savings from im-
2 plementing the Yakima River Basin Integrated
3 Water Resource Management Plan, so that not less
4 than 85,000 acre feet of water savings are achieved
5 by implementing the first phase of the Integrated
6 Plan pursuant to section 1213(a);”;

7 (8) in paragraph (6) (as so redesignated)—

8 (A) by inserting “an increase in” before
9 “voluntary”; and

10 (B) by striking “and” at the end;

11 (9) by inserting after paragraph (6) (as so re-
12 designated) the following:

13 “(7) to encourage an increase in the use of, and
14 reduce the barriers to, water transfers, leasing, mar-
15 kets, and other voluntary transactions among public
16 and private entities to enhance water management
17 in the Yakima River basin;”;

18 (10) in paragraph (8) (as redesignated by para-
19 graph (6)), by striking the period at the end and in-
20 serting a semicolon; and

21 (11) by adding at the end the following:

22 “(9) to improve the resilience of the ecosystems,
23 economies, and communities in the Basin as they
24 face drought, hydrologic changes, and other related
25 changes and variability in natural and human sys-

1 tems, for the benefit of both the people and the fish
2 and wildlife of the region; and

3 “(10) to authorize and implement the Yakima
4 River Basin Integrated Water Resource Manage-
5 ment Plan as Phase III of the Yakima River Basin
6 Water Enhancement Project, as a balanced and
7 cost-effective approach to maximize benefits to the
8 communities and environment in the Basin.”.

9 (c) MODIFICATION OF DEFINITIONS.—Section 1202
10 of Public Law 103–434 (108 Stat. 4550) is amended—

11 (1) by redesignating paragraphs (6), (7), (8),
12 (9), (10), (11), (12), (13), and (14) as paragraphs
13 (8), (10), (11), (13), (14), (15), (16), (18), and
14 (19), respectively;

15 (2) by inserting after paragraph (5) the fol-
16 lowing:

17 “(6) DESIGNATED FEDERAL OFFICIAL.—The
18 term ‘designated Federal official’ means the Com-
19 missioner of Reclamation (or a designee), acting
20 pursuant to the charter of the Conservation Advisory
21 Group.

22 “(7) INTEGRATED PLAN.—The terms ‘Inte-
23 grated Plan’ and ‘Yakima River Basin Integrated
24 Water Resource Plan’ mean the plan and activities
25 authorized by the Yakima River Basin Enhancement

1 Project Phase III Act of 2015 and the amendments
2 made by that Act, to be carried out in cooperation
3 with and in addition to activities of the State of
4 Washington and Yakama Nation.”;

5 (3) by inserting after paragraph (8) (as redesign-
6 nated by paragraph (1)) the following:

7 “(9) MUNICIPAL, INDUSTRIAL, AND DOMESTIC
8 WATER SUPPLY AND USE.—The term ‘municipal, in-
9 dustrial, and domestic water supply and use’ means
10 the supply and use of water for—

11 “(A) domestic consumption (whether urban
12 or rural);

13 “(B) maintenance and protection of public
14 health and safety;

15 “(C) manufacture, fabrication, processing,
16 assembly, or other production of a good or com-
17 modity;

18 “(D) production of energy;

19 “(E) fish hatcheries; or

20 “(F) water conservation activities relating
21 to a use described in subparagraphs (A)
22 through (E).”;

23 (4) by inserting after paragraph (11) (as redes-
24 ignated by paragraph (1)) the following:

1 “(12) PRORATABLE IRRIGATION ENTITY.—The
 2 term ‘proratable irrigation entity’ means a district,
 3 project, or State-recognized authority, board of con-
 4 trol, agency, or entity located in the Yakima River
 5 basin that—

6 “(A) manages and delivers irrigation water
 7 to farms in the basin; and

8 “(B) possesses, or the members of which
 9 possess, water rights that are proratable during
 10 periods of water shortage.”; and

11 (5) by inserting after paragraph (16) (as redes-
 12 igned by paragraph (1)) the following:

13 “(17) YAKIMA ENHANCEMENT PROJECT; YAK-
 14 IMA RIVER BASIN WATER ENHANCEMENT
 15 PROJECT.—The terms ‘Yakima Enhancement
 16 Project’ and ‘Yakima River Basin Water Enhance-
 17 ment Project’ mean the Yakima River basin water
 18 enhancement project authorized by Congress pursu-
 19 ant to this Act and other Acts (including Public Law
 20 96–162 (93 Stat. 1241), section 109 of Public Law
 21 98–381 (16 U.S.C. 839b note; 98 Stat. 1340), Pub-
 22 lic Law 105–62 (111 Stat. 1320), and Public Law
 23 106–372 (114 Stat. 1425)) to promote water con-
 24 servation, water supply, habitat, and stream en-

1 hancement improvements in the Yakima River
2 basin.”.

3 **SEC. 3. YAKIMA RIVER BASIN WATER CONSERVATION PRO-**
4 **GRAM.**

5 Section 1203 of Public Law 103–434 (108 Stat.
6 4551) is amended—

7 (1) in subsection (a)—

8 (A) in paragraph (1)—

9 (i) in the second sentence, by striking
10 “title” and inserting “section”; and

11 (ii) in the third sentence, by striking
12 “within 5 years of the date of enactment
13 of this Act”; and

14 (B) in paragraph (2), by striking “irriga-
15 tion” and inserting “the number of irrigated
16 acres”;

17 (2) in subsection (c)—

18 (A) in paragraph (2)—

19 (i) in each of subparagraphs (A)
20 through (D), by striking the comma at the
21 end and inserting a semicolon;

22 (ii) in subparagraph (E), by striking
23 the comma at the end and inserting “;
24 and”;

1 (iii) in subparagraph (F), by striking
2 “Department of Wildlife of the State of
3 Washington, and” and inserting “Depart-
4 ment of Fish and Wildlife of the State of
5 Washington.”; and

6 (iv) by striking subparagraph (G);
7 (B) in paragraph (3)—

8 (i) in each of subparagraphs (A)
9 through (C), by striking the comma at the
10 end and inserting a semicolon;

11 (ii) in subparagraph (D), by striking
12 “, and” and inserting a semicolon;

13 (iii) in subparagraph (E), by striking
14 the period at the end and inserting “;
15 and”; and

16 (iv) by adding at the end the fol-
17 lowing:

18 “(F) provide recommendations to advance
19 the purposes and programs of the Yakima En-
20 hancement Project, including the Integrated
21 Plan.”; and

22 (C) by striking paragraph (4) and insert-
23 ing the following:

24 “(4) AUTHORITY OF DESIGNATED FEDERAL OF-
25 FICIAL.—The designated Federal official may—

1 “(A) arrange and provide logistical support
2 for meetings of the Conservation Advisory
3 Group;

4 “(B) use a facilitator to serve as a moder-
5 ator for meetings of the Conservation Advisory
6 Group or provide additional logistical support;
7 and

8 “(C) grant any request for a facilitator by
9 any member of the Conservation Advisory
10 Group.”;

11 (3) in subsection (d), by adding at the end the
12 following:

13 “(4) USE OF CONSERVED WATER.—The Yak-
14 ima Project Manager may use water resulting from
15 conservation measures taken under this title, in ad-
16 dition to water that the Bureau of Reclamation may
17 acquire from any willing seller through purchase, do-
18 nation, or lease, for water management uses pursu-
19 ant to this title.”;

20 (4) in subsection (e), by striking the first sen-
21 tence and inserting the following: “To participate in
22 the Basin Conservation Program, as described in
23 subsection (b), an entity shall submit to the Sec-
24 retary a proposed water conservation plan.”;

25 (5) in subsection (i)(3)—

1 (A) by striking “purchase or lease” each
2 place it appears and inserting “purchase, lease,
3 or management”; and

4 (B) in the third sentence, by striking
5 “made immediately upon availability” and all
6 that follows through “Committee” and inserting
7 “continued as needed to provide water to be
8 used by the Yakima Project Manager as rec-
9 ommended by the System Operations Advisory
10 Committee and the Conservation Advisory
11 Group”; and

12 (6) in subsection (j)(4), in the first sentence, by
13 striking “initial acquisition” and all that follows
14 through “flushing flows” and inserting “acquisition
15 of water from willing sellers or lessors specifically to
16 provide improved instream flows for anadromous
17 and resident fish and other aquatic life, including
18 pulse flows to facilitate outward migration of anad-
19 romous fish”.

20 **SEC. 4. YAKIMA BASIN WATER PROJECTS, OPERATIONS,**
21 **AND AUTHORIZATIONS.**

22 (a) YAKAMA NATION PROJECTS.—Section 1204 of
23 Public Law 103–434 (108 Stat. 4555) is amended, in sub-
24 section (g)—

1 (1) by striking the subsection heading and in-
2 serting “REDESIGNATION OF YAKAMA INDIAN NA-
3 TION TO YAKAMA NATION.—”; and

4 (2) by striking paragraph (1) and inserting the
5 following:

6 “(1) REDESIGNATION.—The Confederated
7 Tribes and Bands of the Yakama Indian Nation
8 shall be known and designated as the ‘Confederated
9 Tribes and Bands of the Yakama Nation’.”.

10 (A) in paragraph (2), by striking “deemed
11 to be a reference to the ‘Confederated Tribes
12 and Bands of the Yakama Indian Nation’.” and
13 inserting “deemed to be a reference to the
14 ‘Confederated Tribes and Bands of the Yakama
15 Nation’.”.

16 (b) OPERATION OF YAKIMA BASIN PROJECTS.—Sec-
17 tion 1205 of Public Law 103–434 (108 Stat. 4557) is
18 amended—

19 (1) in subsection (a)—

20 (A) in paragraph (4)—

21 (i) in subparagraph (A)—

22 (I) in clause (i)—

23 (aa) by inserting “addi-
24 tional” after “secure”;

1 (bb) by striking “flushing”
2 and inserting “pulse”; and
3 (cc) by striking “uses” and
4 inserting “uses, in addition to the
5 quantity of water provided under
6 the treaty between the Yakama
7 Nation and the United States”;
8 (II) by striking clause (ii);
9 (III) by redesignating clause (iii)
10 as clause (ii); and
11 (IV) in clause (ii) (as so redesign-
12 nated) by inserting “and water rights
13 mandated” after “goals”; and
14 (ii) in subparagraph (B)(i), in the
15 first sentence, by inserting “in proportion
16 to the funding received” after “Program”;
17 (2) in subsection (b) (as amended by section
18 2(a)(1)(B)), in the second sentence, by striking
19 “instream flows for use by the Yakima Project Man-
20 ager as flushing flows or as otherwise” and inserting
21 “fishery purposes, as”; and
22 (3) in subsection (e), by striking paragraph (1)
23 and inserting the following:
24 “(1) IN GENERAL.—Additional purposes of the
25 Yakima Project shall be any of the following:

1 “(A) To recover and maintain self-sus-
 2 taining harvestable populations of native fish,
 3 both anadromous and resident species, in the
 4 Yakima Basin.

5 “(B) To protect, mitigate, and enhance
 6 aquatic life and wildlife.

7 “(C) Recreation.

8 “(D) Municipal, industrial, and domestic
 9 use.”.

10 (c) LAKE CLE ELUM AUTHORIZATION OF APPRO-
 11 PRIATIONS.—Section 1206(a)(1) of Public Law 103–434
 12 (108 Stat. 4560), is amended, in the matter preceding
 13 subparagraph (A), by striking “at September” and all that
 14 follows through “to—”.

15 (d) ENHANCEMENT OF WATER SUPPLIES FOR YAK-
 16 IMA BASIN TRIBUTARIES.—Section 1207 of Public Law
 17 103–434 (108 Stat. 4560) is amended—

18 (1) in the heading, by striking “**SUPPLIES**”
 19 and inserting “**MANAGEMENT**”;

20 (2) in subsection (a)—

21 (A) in the matter preceding paragraph (1),
 22 by striking “supplies” and inserting “manage-
 23 ment”;

24 (B) in paragraph (1), by inserting “and
 25 water supply entities” after “owners”; and

1 (C) in paragraph (2)—

2 (i) in subparagraph (A), by inserting
3 “that choose not to participate or opt out
4 of tributary enhancement projects pursu-
5 ant to this section” after “water right own-
6 ers”; and

7 (ii) in subparagraph (B), by inserting
8 “nonparticipating” before “tributary water
9 users”;

10 (3) in subsection (b)—

11 (A) in paragraph (1)—

12 (i) by striking the paragraph designa-
13 tion and all that follows through “(but not
14 limited to)—” and inserting the following:

15 “(1) IN GENERAL.—The Secretary, following
16 consultation with the State of Washington, tributary
17 water right owners, and the Yakama Nation, and on
18 agreement of appropriate water right owners, is au-
19 thorized to conduct studies to evaluate measures to
20 further Yakima Project purposes on tributaries to
21 the Yakima River. Enhancement programs that use
22 measures authorized by this subsection may be in-
23 vestigated and implemented by the Secretary in trib-
24 utaries to the Yakima River, including Taneum
25 Creek, other areas, or tributary basins that currently

1 or could potentially be provided supplemental or
2 transfer water by entities, such as the Kittitas Rec-
3 lamation District or the Yakima-Tieton Irrigation
4 District, subject to the condition that activities may
5 commence on completion of applicable and required
6 feasibility studies, environmental reviews, and cost-
7 benefit analyses that include favorable recommenda-
8 tions for further project development, as appro-
9 priate. Measures to evaluate include—”;

10 (ii) by indenting subparagraphs (A)
11 through (F) appropriately;

12 (iii) in subparagraph (A), by inserting
13 before the semicolon at the end the fol-
14 lowing: “, including irrigation efficiency
15 improvements (in coordination with pro-
16 grams of the Department of Agriculture),
17 consolidation of diversions or administra-
18 tion, and diversion scheduling or coordina-
19 tion”;

20 (iv) by redesignating subparagraphs
21 (C) through (F) as subparagraphs (E)
22 through (H), respectively;

23 (v) by inserting after subparagraph
24 (B) the following:

1 “(C) improvements in irrigation system
2 management or delivery facilities within the
3 Yakima River basin when those improvements
4 allow for increased irrigation system conveyance
5 and corresponding reduction in diversion from
6 tributaries or flow enhancements to tributaries
7 through direct flow supplementation or ground-
8 water recharge;

9 “(D) improvements of irrigation system
10 management or delivery facilities to reduce or
11 eliminate excessively high flows caused by the
12 use of natural streams for conveyance or irriga-
13 tion water or return water;”;

14 (vi) in subparagraph (E) (as redesign-
15 nated by clause (iv)), by striking “ground
16 water” and inserting “groundwater re-
17 charge and”;

18 (vii) in subparagraph (G) (as redesign-
19 nated by clause (iv)), by inserting “or
20 transfer” after “purchase”; and

21 (viii) in subparagraph (H) (as redesign-
22 nated by clause (iv)), by inserting “stream
23 processes and” before “stream habitats”;

24 (B) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking “the Taneum Creek study” and inserting “studies under this subsection”;

(ii) in subparagraph (B)—

(I) by striking “and economic” and inserting “, infrastructure, economic, and land use”; and

(II) by striking “and” at the end;

(iii) in subparagraph (C), by striking the period at the end and inserting “; and”; and

(iv) by adding at the end the following:

“(D) any related studies already underway or undertaken.”; and

(C) in paragraph (3), in the first sentence, by inserting “of each tributary or group of tributaries” after “study”;

(4) in subsection (c)—

(A) in the heading, by inserting “**AND NONSURFACE STORAGE**” after “**NONSTORAGE**”; and

1 (B) in the matter preceding paragraph (1),
 2 by inserting “and nonsurface storage” after
 3 “nonstorage”;
 4 (5) by striking subsection (d);
 5 (6) by redesignating subsection (e) as sub-
 6 section (d); and
 7 (7) in paragraph (2) of subsection (d) (as so re-
 8 designated)—

9 (A) in the first sentence—

10 (i) by inserting “and implementation”
 11 after “investigation”;

12 (ii) by striking “other” before “Yak-
 13 ima River”; and

14 (iii) by inserting “and other water
 15 supply entities” after “owners”; and

16 (B) by striking the second sentence.

17 (e) CHANDLER PUMPING PLANT AND POWERPLANT-
 18 OPERATIONS AT PROSSER DIVERSION DAM.—Section
 19 1208(d) of Public Law 103–434 (108 Stat. 4562; 114
 20 Stat. 1425) is amended by inserting “negatively” before
 21 “affected”.

22 **SEC. 5. AUTHORIZATION OF PHASE III OF YAKIMA RIVER**
 23 **Basin Water Enhancement Project.**

24 Title XII of Public Law 103–434 (108 Stat. 4550)
 25 is amended by adding at the end the following:

1 **“SEC. 1213. AUTHORIZATION OF THE INTEGRATED PLAN AS**
2 **PHASE III OF YAKIMA RIVER BASIN WATER**
3 **ENHANCEMENT PROJECT.**

4 “(a) INTEGRATED PLAN.—

5 “(1) IN GENERAL.—The Secretary shall imple-
6 ment the Integrated Plan as Phase III of the Yak-
7 ima River Basin Water Enhancement Project in ac-
8 cordance with this section and applicable laws.

9 “(2) INITIAL DEVELOPMENT PHASE OF THE IN-
10 TEGRATED PLAN.—

11 “(A) IN GENERAL.—The Secretary, in co-
12 ordination with the State of Washington and
13 Yakama Nation and subject to feasibility stud-
14 ies, environmental reviews, and the availability
15 of appropriations, shall implement an initial de-
16 velopment phase of the Integrated Plan, to—

17 “(i) complete the planning, design,
18 and construction or development of up-
19 stream and downstream fish passage facili-
20 ties, as previously authorized by the Hoo-
21 ver Power Plant Act of 1984 (43 U.S.C.
22 619 et seq.) at Cle Elum Reservoir and an-
23 other Yakima Project reservoir identified
24 by the Secretary as consistent with the In-
25 tegrated Plan, subject to the condition
26 that, if the Yakima Project reservoir iden-

1 tified by the Secretary contains a hydro-
2 power project licensed by the Federal En-
3 ergy Regulatory Commission, the Secretary
4 shall cooperate with the Federal Energy
5 Regulatory Commission in a timely manner
6 to ensure that actions taken by the Sec-
7 retary are consistent with the applicable
8 hydropower project license;

9 “(ii) negotiate long-term agreements
10 with participating proratable irrigation en-
11 tities in the Yakima Basin and, acting
12 through the Bureau of Reclamation, co-
13 ordinate between Bureaus of the Depart-
14 ment of the Interior and with the heads of
15 other Federal agencies to negotiate agree-
16 ments concerning leases, easements, and
17 rights-of-way on Federal land, and other
18 terms and conditions determined to be nec-
19 essary to allow for the non-Federal financ-
20 ing, construction, operation, and mainte-
21 nance of—

22 “(I) new facilities needed to ac-
23 cess and deliver inactive storage in
24 Lake Kachess for the purpose of pro-
25 viding drought relief for irrigation

1 (known as the ‘Kachess Drought Re-
2 lief Pumping Plant’); and

3 “(II) a conveyance system to
4 allow transfer of water between
5 Keechelus Reservoir to Kachess Res-
6 ervoir for purposes of improving oper-
7 ational flexibility for the benefit of
8 both fish and irrigation (known as the
9 ‘K to K Pipeline’);

10 “(iii) participate in, provide funding
11 for, and accept non-Federal financing
12 for—

13 “(I) water conservation projects,
14 not subject to the provisions of the
15 Basin Conservation Program de-
16 scribed in section 1203, that are in-
17 tended to partially implement the In-
18 tegrated Plan by providing 85,000
19 acre-feet of conserved water to im-
20 prove tributary and mainstem stream
21 flow; and

22 “(II) aquifer storage and recov-
23 ery projects;

24 “(iv) study, evaluate, and conduct fea-
25 sibility analyses and environmental reviews

1 of fish passage, water supply (including
2 groundwater and surface water storage),
3 conservation, habitat restoration projects,
4 and other alternatives identified as con-
5 sistent with the purposes of this Act, for
6 the initial and future phases of the Inte-
7 grated Plan;

8 “(v) coordinate with and assist the
9 State of Washington in implementing a ro-
10 bust water market to enhance water man-
11 agement in the Yakima River basin, in-
12 cluding—

13 “(I) assisting in identifying ways
14 to encourage and increase the use of,
15 and reduce the barriers to, water
16 transfers, leasing, markets, and other
17 voluntary transactions among public
18 and private entities in the Yakima
19 River basin;

20 “(II) providing technical assist-
21 ance, including scientific data and
22 market information; and

23 “(III) negotiating agreements
24 that would facilitate voluntary water
25 transfers between entities, including

1 as appropriate, the use of federally
2 managed infrastructure; and

3 “(vi) enter into cooperative agree-
4 ments with, or, subject to a minimum non-
5 Federal cost-sharing requirement of 50
6 percent, make grants to, the Yakama Na-
7 tion, the State of Washington, Yakima
8 River basin irrigation districts, water dis-
9 tricts, conservation districts, other local
10 governmental entities, nonprofit organiza-
11 tions, and land owners to carry out this
12 title under such terms and conditions as
13 the Secretary may require, including the
14 following purposes:

15 “(I) Land and water transfers,
16 leases, and acquisitions from willing
17 participants, so long as the acquiring
18 entity shall hold title and be respon-
19 sible for any and all required oper-
20 ations, maintenance, and management
21 of that land and water.

22 “(II) To combine or relocate di-
23 version points, remove fish barriers,
24 or for other activities that increase
25 flows or improve habitat in the Yak-

1 ima River and its tributaries in fur-
2 therance of this title.

3 “(III) To implement, in partner-
4 ship with Federal and non-Federal en-
5 tities, projects to enhance the health
6 and resilience of the watershed.

7 “(B) COMMENCEMENT DATE.—The Sec-
8 retary shall commence implementation of the
9 activities included under the initial development
10 phase pursuant to this paragraph—

11 “(i) on the date of enactment of this
12 section; and

13 “(ii) on completion of applicable feasi-
14 bility studies, environmental reviews, and
15 cost-benefit analyses that include favorable
16 recommendations for further project devel-
17 opment.

18 “(3) INTERMEDIATE AND FINAL PHASES.—

19 “(A) IN GENERAL.—The Secretary, in co-
20 ordination with the State of Washington and in
21 consultation with the Yakama Nation, shall de-
22 velop plans for intermediate and final develop-
23 ment phases of the Integrated Plan to achieve
24 the purposes of this Act, including conducting
25 applicable feasibility studies, environmental re-

1 views, and other relevant studies needed to de-
2 velop the plans.

3 “(B) INTERMEDIATE PHASE.—The Sec-
4 retary shall develop an intermediate develop-
5 ment phase to implement the Integrated Plan
6 that, subject to authorization and appropri-
7 ation, would commence not later than 10 years
8 after the date of enactment of this section.

9 “(C) FINAL PHASE.—The Secretary shall
10 develop a final development phase to implement
11 the Integrated Plan that, subject to authoriza-
12 tion and appropriation, would commence not
13 later than 20 years after the date of enactment
14 of this section.

15 “(4) CONTINGENCIES.—The implementation by
16 the Secretary of projects and activities identified for
17 implementation under the Integrated Plan shall be—

18 “(A) subject to authorization and appro-
19 priation;

20 “(B) contingent on the completion of appli-
21 cable feasibility studies, environmental reviews,
22 and cost-benefit analyses that include favorable
23 recommendations for further project develop-
24 ment;

1 “(C) implemented on public review and a
2 determination by the Secretary that design,
3 construction, and operation of a proposed
4 project or activity is in the best interest of the
5 public; and

6 “(D) in compliance with all applicable
7 laws, including the National Environmental
8 Policy Act of 1969 (42 U.S.C. 4321 et seq.)
9 and the Endangered Species Act of 1973 (16
10 U.S.C. 1531 et seq).

11 “(5) PROGRESS REPORT.—

12 “(A) IN GENERAL.—Not later than 5 years
13 after the date of enactment of this section, the
14 Secretary, in conjunction with the State of
15 Washington and in consultation with the
16 Yakama Nation, shall submit to the Committee
17 on Energy and Natural Resources of the Senate
18 and the Committee on Natural Resources of the
19 House of Representatives a progress report on
20 the development and implementation of the In-
21 tegrated Plan.

22 “(B) REQUIREMENTS.—The progress re-
23 port under this paragraph shall—

24 “(i) provide a review and reassess-
25 ment, if needed, of the objectives of the In-

1 integrated Plan, as applied to all elements of
2 the Integrated Plan;

3 “(ii) assess, through performance
4 metrics developed at the initiation of, and
5 measured throughout the implementation
6 of, the Integrated Plan, the degree to
7 which the implementation of the initial de-
8 velopment phase addresses the objectives
9 and all elements of the Integrated Plan;

10 “(iii) identify the amount of Federal
11 funding and non-Federal contributions re-
12 ceived and expended during the period cov-
13 ered by the report;

14 “(iv) describe the pace of project de-
15 velopment during the period covered by the
16 report;

17 “(v) identify additional projects and
18 activities proposed for inclusion in any fu-
19 ture phase of the Integrated Plan to ad-
20 dress the objectives of the Integrated Plan,
21 as applied to all elements of the Integrated
22 Plan; and

23 “(vi) for water supply projects—

24 “(I) provide a preliminary discus-
25 sion of the means by which—

1 “(aa) water and costs asso-
 2 ciated with each recommended
 3 project would be allocated among
 4 authorized uses; and

5 “(bb) those allocations
 6 would be consistent with the ob-
 7 jectives of the Integrated Plan;
 8 and

9 “(II) establish a plan for solici-
 10 ting and formalizing subscriptions
 11 among individuals and entities for
 12 participation in any of the rec-
 13 ommended water supply projects that
 14 will establish the terms for participa-
 15 tion, including fiscal obligations asso-
 16 ciated with subscription.

17 “(b) FINANCING, CONSTRUCTION, OPERATION, AND
 18 MAINTENANCE OF KACHESS DROUGHT RELIEF PUMPING
 19 PLANT AND K TO K PIPELINE.—

20 “(1) AGREEMENTS.—Long-term agreements ne-
 21 gotiated between the Secretary and participating
 22 proratable irrigation entities in the Yakima Basin
 23 for the non-Federal financing, construction, oper-
 24 ation, and maintenance of the Drought Relief Pump-

1 ing Plant and K to K Pipeline shall include provi-
2 sions regarding—

3 “(A) responsibilities of the participating
4 proratable irrigation entities for the planning,
5 design, and construction of infrastructure in
6 consultation and coordination with the Sec-
7 retary;

8 “(B) property titles and responsibilities of
9 the participating proratable irrigation entities
10 for the maintenance of and liability for all in-
11 frastructure constructed under this title;

12 “(C) operation and integration of the
13 projects by the Secretary in the operation of the
14 Yakima Project;

15 “(D) costs associated with the design, fi-
16 nancing, construction, operation, maintenance,
17 and mitigation of projects, with the costs of
18 Federal oversight and review to be nonreim-
19 bursable to the participating proratable irriga-
20 tion entities and the Yakima Project; and

21 “(E) responsibilities for the pumping and
22 operational costs necessary to provide the total
23 water supply available made inaccessible due to
24 drought pumping during the preceding 1 or
25 more calendar years, in the event that the

1 Kachess Reservoir fails to refill as a result of
2 pumping drought storage water during the pre-
3 ceding 1 or more calendar years, which shall re-
4 main the responsibility of the participating pro-
5 ratable irrigation entities.

6 “(2) USE OF KACHESS RESERVOIR STORED
7 WATER.—

8 “(A) IN GENERAL.—The additional stored
9 water made available by the construction of fa-
10 cilities to access and deliver inactive storage in
11 Kachess Reservoir under subsection
12 (a)(2)(A)(ii)(I) shall—

13 “(i) be considered to be Yakima
14 Project water;

15 “(ii) not be part of the total water
16 supply available, as that term is defined in
17 various court rulings; and

18 “(iii) be used exclusively by the Sec-
19 retary—

20 “(I) to enhance the water supply
21 in years when the total water supply
22 available is not sufficient to provide
23 70 percent of proratable entitlements
24 in order to make that additional water
25 available up to 70 percent of prorated

1 able entitlements to the Kittitas Rec-
2 lamation District, the Roza Irrigation
3 District, or other proratable irrigation
4 entities participating in the construc-
5 tion, operation, and maintenance costs
6 of the facilities under this title under
7 such terms and conditions to which
8 the districts may agree, subject to the
9 conditions that—

10 “(aa) the Bureau of Indian
11 Affairs, the Wapato Irrigation
12 Project, and the Yakama Nation,
13 on an election to participate, may
14 also obtain water from Kachess
15 Reservoir inactive storage to en-
16 hance applicable existing irriga-
17 tion water supply in accordance
18 with such terms and conditions
19 to which the Bureau of Indian
20 Affairs and the Yakama Nation
21 may agree; and

22 “(bb) the additional supply
23 made available under this clause
24 shall be available to participating
25 individuals and entities in pro-

1 portion to the proratable entitle-
2 ments of the participating indi-
3 viduals and entities, or in such
4 other proportion as the partici-
5 pating entities may agree; and

6 “(II) to facilitate reservoir oper-
7 ations in the reach of the Yakima
8 River between Keechelus Dam and
9 Easton Dam for the propagation of
10 anadromous fish.

11 “(B) EFFECT OF PARAGRAPH.—Nothing
12 in this paragraph affects (as in existence on the
13 date of enactment of this section) any contract,
14 law (including regulations) relating to repay-
15 ment costs, water right, or Yakama Nation
16 treaty right.

17 “(3) COMMENCEMENT.—The Secretary shall
18 not commence entering into agreements pursuant to
19 subsection (a)(2)(A)(ii) or subsection (b)(1) or im-
20 plementing any activities pursuant to the agree-
21 ments before the date on which—

22 “(A) all applicable and required feasibility
23 studies, environmental reviews, and cost-benefit
24 analyses have been completed and include favor-

1 able recommendations for further project devel-
2 opment, including an analysis of—

3 “(i) the impacts of the agreements
4 and activities conducted pursuant to sub-
5 section (a)(2)(A)(ii) on adjacent commu-
6 nities, including potential fire hazards,
7 water access for fire districts, community
8 and homeowner wells, future water levels
9 based on projected usage, recreational val-
10 ues, and property values; and

11 “(ii) specific options and measures for
12 mitigating the impacts, as appropriate;

13 “(B) the Secretary has made the agree-
14 ments and any applicable project designs, oper-
15 ations plans, and other documents available for
16 public review and comment in the Federal Reg-
17 ister for a period of not less than 60 days; and

18 “(C) the Secretary has made a determina-
19 tion, consistent with applicable law, that the
20 agreements and activities to which the agree-
21 ments relate—

22 “(i) are in the public interest; and

23 “(ii) could be implemented without
24 significant adverse impacts to the environ-
25 ment.

1 “(4) ELECTRICAL POWER ASSOCIATED WITH
2 KACHESS DROUGHT RELIEF PUMPING PLANT.—

3 “(A) IN GENERAL.—The Administrator of
4 the Bonneville Power Administration, pursuant
5 to the Pacific Northwest Electric Power Plan-
6 ning and Conservation Act (16 U.S.C. 839 et
7 seq.), shall provide to the Secretary project
8 power to operate the Kachess Pumping Plant
9 constructed under this title if inactive storage
10 in Kachess Reservoir is needed to provide
11 drought relief for irrigation, subject to the re-
12 quirements of subparagraphs (B) and (C).

13 “(B) DETERMINATION.—Power may be
14 provided under subparagraph (A) only if—

15 “(i) there is in effect a drought dec-
16 laration issued by the State of Washington;

17 “(ii) there are conditions that have led
18 to 70 percent or less water delivery to pro-
19 ratable irrigation districts, as determined
20 by the Secretary; and

21 “(iii) the Secretary determines that it
22 is appropriate to provide power under that
23 subparagraph.

24 “(C) PERIOD OF AVAILABILITY.—Power
25 under subparagraph (A) shall be provided until

1 the date on which the Secretary determines that
2 power should no longer be provided under that
3 subparagraph, but for not more than a 1-year
4 period or the period during which the Secretary
5 determines that drought mitigation measures
6 are necessary in the Yakima River basin.

7 “(D) RATE.—The Administrator of the
8 Bonneville Power Administration shall provide
9 power under subparagraph (A) at the then-ap-
10 plicable lowest Bonneville Power Administration
11 rate for public body, cooperative, and Federal
12 agency customers firm obligations, which as of
13 the date of enactment of this section is the pri-
14 ority firm Tier 1 rate, and shall not include any
15 irrigation discount.

16 “(E) LOCAL PROVIDER.—During any pe-
17 riod in which power is not being provided under
18 subparagraph (A), the power needed to operate
19 the Kachess Pumping Plant shall be obtained
20 by the Secretary from a local provider.

21 “(F) COSTS.—The cost of power for such
22 pumping, station service power, and all costs of
23 transmitting power from the Federal Columbia
24 River Power System to the Yakima Enhance-
25 ment Project pumping facilities shall be borne

1 by irrigation districts receiving the benefits of
2 that water.

3 “(G) DUTIES OF COMMISSIONER.—The
4 Commissioner of Reclamation shall be respon-
5 sible for arranging transmission for deliveries of
6 Federal power over the Bonneville system
7 through applicable tariff and business practice
8 processes of the Bonneville system and for ar-
9 ranging transmission for deliveries of power ob-
10 tained from a local provider.

11 “(c) DESIGN AND USE OF GROUNDWATER RE-
12 CHARGE PROJECTS.—

13 “(1) IN GENERAL.—Any water supply that re-
14 sults from an aquifer storage and recovery project
15 shall not be considered to be a part of the total
16 water supply available if—

17 “(A) the water for the aquifer storage and
18 recovery project would not be available for use,
19 but instead for the development of the project;

20 “(B) the aquifer storage and recovery
21 project will not otherwise impair any water sup-
22 ply available for any individual or entity entitled
23 to use the total water supply available; and

1 “(C) the development of the aquifer stor-
2 age and recovery project will not impair fish or
3 other aquatic life in any localized stream reach.

4 “(2) PROJECT TYPES.—The Secretary may pro-
5 vide technical assistance for, and participate in, any
6 of the following 3 types of groundwater recharge
7 projects (including the incorporation of groundwater
8 recharge projects into Yakima Project operations, as
9 appropriate):

10 “(A) Aquifer recharge projects designed to
11 redistribute Yakima Project water within a
12 water year for the purposes of supplementing
13 stream flow during the irrigation season, par-
14 ticularly during storage control, subject to the
15 condition that if such a project is designed to
16 supplement a mainstem reach, the water supply
17 that results from the project shall be credited to
18 instream flow targets, in lieu of using the total
19 water supply available to meet those targets.

20 “(B) Aquifer storage and recovery projects
21 that are designed, within a given water year or
22 over multiple water years—

23 “(i) to supplement or mitigate for mu-
24 nicipal uses;

1 “(ii) to supplement municipal supply
2 in a subsurface aquifer; or

3 “(iii) to mitigate the effect of ground-
4 water use on instream flow or senior water
5 rights.

6 “(C) Aquifer storage and recovery projects
7 designed to supplement existing irrigation water
8 supply, or to store water in subsurface aquifers,
9 for use by the Kittitas Reclamation District,
10 the Roza Irrigation District, or any other pro-
11 ratable irrigation entity participating in the re-
12 payment of the construction, operation, and
13 maintenance costs of the facilities under this
14 section during years in which the total water
15 supply available is insufficient to provide to
16 those proratable irrigation entities all water to
17 which the entities are entitled, subject to the
18 conditions that—

19 “(i) the Bureau of Indian Affairs, the
20 Wapato Irrigation Project, and the
21 Yakama Nation, on an election to partici-
22 pate, may also obtain water from aquifer
23 storage to enhance applicable existing irri-
24 gation water supply in accordance with
25 such terms and conditions to which the

1 Bureau of Indian Affairs and the Yakama
2 Nation may agree; and

3 “(ii) nothing in this subparagraph af-
4 fects (as in existence on the date of enact-
5 ment of this section) any contract, law (in-
6 cluding regulations) relating to repayment
7 costs, water right, or Yakama Nation trea-
8 ty right.

9 “(d) STATE AND OTHER CONTRIBUTIONS.—The Sec-
10 retary may accept as part of the non-Federal cost-share
11 of a project carried out under this section, and expend
12 as if appropriated, any contribution (including in-kind
13 services) by the State of Washington or any other indi-
14 vidual or entity that the Secretary determines will enhance
15 the conduct and completion of the project.

16 “(e) SAVINGS AND CONTINGENCIES.—Nothing in this
17 section shall—

18 “(1) be a new or supplemental benefit for pur-
19 poses of the Reclamation Reform Act of 1982 (43
20 U.S.C. 390aa et seq.);

21 “(2) affect any contract in existence on the date
22 of enactment of the Yakima River Basin Water En-
23 hancement Project Phase III Act that was executed
24 pursuant to the reclamation laws;

1 “(3) affect any contract or agreement between
2 the Bureau of Indian Affairs and the Bureau of
3 Reclamation;

4 “(4) affect, waive, abrogate, diminish, define, or
5 interpret the treaty between the Yakama Nation and
6 the United States; or

7 “(5) constrain the continued authority of the
8 Secretary to provide fish passage in the Yakima
9 Basin in accordance with the Hoover Power Plant
10 Act of 1984 (43 U.S.C 619 et seq.).

11 **“SEC. 1214. OPERATIONAL CONTROL OF WATER SUPPLIES.**

12 “The Secretary shall retain authority and discretion
13 over the management of project supplies to optimize oper-
14 ational use and flexibility to ensure compliance with all
15 applicable Federal and State laws, treaty rights of the
16 Yakama Nation, and legal obligations, including those
17 contained in this Act. That authority and discretion in-
18 cludes the ability of the United States to store, deliver,
19 conserve, and reuse water supplies deriving from projects
20 authorized under this title.”.

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