

114TH CONGRESS  
1ST SESSION

# H. R. 2898

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## AN ACT

To provide drought relief in the State of California, and  
for other purposes.

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

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

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

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

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

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

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

**TITLE II—ENSURING SALMONID MANAGEMENT IS RESPONSIVE  
 TO NEW SCIENCE**

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

**TITLE III—OPERATIONAL FLEXIBILITY AND DROUGHT RELIEF**

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

**TITLE IV—CALFED STORAGE FEASIBILITY STUDIES**

Sec. 401. Studies.

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

#### TITLE V—WATER RIGHTS PROTECTIONS

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

#### TITLE VI—MISCELLANEOUS

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

#### TITLE VII—WATER SUPPLY PERMITTING ACT

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

#### TITLE VIII—BUREAU OF RECLAMATION PROJECT STREAMLINING

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

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

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

#### TITLE X—SAFETY OF DAMS

- Sec. 1001. Authorization of additional project benefits.

#### TITLE XI—WATER RIGHTS PROTECTION

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

1 **SEC. 2. FINDINGS.**

2 Congress finds as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 **SEC. 3. DEFINITIONS.**

22 In this Act:

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



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

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

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

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

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

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

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

6                       (A) the smelt biological opinion; and

7                       (B) the salmonid biological opinion.

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

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

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

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

6 **SEC. 101. DEFINITIONS.**

7 In this title:

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

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

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

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

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

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

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

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

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

10 (3) updated scientific and commercial data; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (d) DELTA SMELT DISTRIBUTION STUDY.—

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

9 (C) the water temperature;

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

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

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

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

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

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

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

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

7 **SEC. 201. DEFINITIONS.**

8 In this title:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

10          (4) through predation control programs;

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

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

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

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

1 (f) SURVIVAL ESTIMATES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

12 (1) be scientifically based;

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

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

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

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

8       (c) CONDUCT.—

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

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

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

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

8 (d) FUNDING.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

4 **SEC. 301. DEFINITIONS.**

5 In this title:

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

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

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

18 (A) the Secretary of Agriculture;

19 (B) the Secretary of Commerce; and

20 (C) the Secretary of the Interior.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3           (2) REQUEST FOR RESOLUTION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

12 (B) water quality; and

13 (C) water supply;

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

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

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

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

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

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

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

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

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

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

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

23           (1) human health and safety; or

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (d) OTHER ENVIRONMENTAL PROTECTIONS.—

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 “(1) IN GENERAL.—In order to”; and

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

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

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

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

25 “(A) this Act;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 **SEC. 312. APPLICANTS.**

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

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

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

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

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

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



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

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

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

18 **SEC. 401. STUDIES.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (1) the Project; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

13 (a) ALLOCATIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (e) DEFINITIONS.—In this section:

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

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

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

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

21 **TITLE VI—MISCELLANEOUS**

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

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

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

4 (b) LONG-TERM CONTRACT.—

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

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

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



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

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

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

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

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

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

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

20 “(h) **ADVISORY BOARD.**—

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

1 “(2) MEMBERSHIP.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3           “(5) VACANCIES.—

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

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

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

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

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

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

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

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

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

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

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

22           “(10) COOPERATION AND ASSISTANCE.—

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

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

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

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

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

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

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

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

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

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

1 (1) In subsection (b)—

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (b) FUNDING.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### 13 **SEC. 702. DEFINITIONS.**

14 In this title:

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (b) EFFECT ON PERMITTING.—

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

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

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

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

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

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

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

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

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



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

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

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

7 **SEC. 802. DEFINITIONS.**

8 In this title:

9 (1) ENVIRONMENTAL IMPACT STATEMENT.—

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

15 (2) ENVIRONMENTAL REVIEW PROCESS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (c) EXCEPTION.—

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

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

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

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

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

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

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

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

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

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

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

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

1 (A) have jurisdiction over the project;

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

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

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

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

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

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

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

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

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

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

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

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

22       The Secretary shall—

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



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

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

8           (a) APPLICABILITY.—

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

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

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

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

determines there is a demonstrable Federal interest and the project—

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

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

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

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

(3) LIST OF PROJECT STUDIES.—

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

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

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

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

9 (b) PROJECT REVIEW PROCESS.—

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

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

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

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

4       (c) LEAD AGENCIES.—

5           (1) JOINT LEAD AGENCIES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (d) PARTICIPATING AND COOPERATING AGENCIES.—

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

23 (A) have jurisdiction over the project;

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

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

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

13 (A) have jurisdiction over the project;

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

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

20 (3) INVITATION.—

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



1 the environmental review process for the project  
2 study.

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

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

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

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

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

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

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

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

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

12 (A) supports a proposed project; or

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

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

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

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

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

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

21 (g) PROGRAMMATIC COMPLIANCE.—

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

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

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

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

10 (D) complies with—

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

13 (ii) all other applicable laws.

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

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

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

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

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

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

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

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

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

21                  (iii) describe—

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

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

11 (h) COORDINATED REVIEWS.—

12 (1) COORDINATION PLAN.—

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

22 (B) SCHEDULE.—

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

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

11 (ii) FACTORS FOR CONSIDERATION.—

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

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

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

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

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

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

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

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

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

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

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

21 (II) made available to the public.

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



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

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

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

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

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

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

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

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

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

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

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

6           (5) TRANSPARENCY REPORTING.—

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

20               (B) PROJECT STUDY TRANSPARENCY.—

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

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

3           (i) ISSUE IDENTIFICATION AND RESOLUTION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3           (5) FINANCIAL PENALTY PROVISIONS.—

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

9                 (B) FAILURE TO DECIDE.—

10                (i) IN GENERAL.—

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

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

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

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

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



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

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

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

14          (C) LIMITATIONS.—

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

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

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

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

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

25 (i) the decision;

1 (ii) the project study involved;

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

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

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

11 (E) NO FAULT OF AGENCY.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (B) any other Federal environmental law;

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

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

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

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

3 (l) TIMING OF CLAIMS.—

4 (1) TIMING.—

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

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

22 (2) NEW INFORMATION.—

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



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

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

16 (m) CATEGORICAL EXCLUSIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

15           (A) project delivery;

16           (B) compliance with environmental laws;

17           and

18           (C) the environmental impact of projects.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (b) REQUESTS FOR PROPOSALS.—

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

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

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

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

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

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

23 (c) CONTENTS.—

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

1 (A) CRITERIA FOR INCLUSION IN RE-  
2 PORT.—The Secretary shall include in the an-  
3 nual report only those project reports, proposed  
4 project studies, and proposed modifications to  
5 authorized projects and project studies that—

6 (i) are related to the missions and au-  
7 thorities of the Bureau of Reclamation;

8 (ii) require specific congressional au-  
9 thorization, including by an Act of Con-  
10 gress;

11 (iii) have not been congressionally au-  
12 thorized;

13 (iv) have not been included in any  
14 previous annual report; and

15 (v) if authorized, could be carried out  
16 by the Bureau of Reclamation.

17 (B) DESCRIPTION OF BENEFITS.—

18 (i) DESCRIPTION.—The Secretary  
19 shall describe in the annual report, to the  
20 extent applicable and practicable, for each  
21 proposed project study and proposed modi-  
22 fication to an authorized water resources  
23 development project or project study in-  
24 cluded in the annual report, the benefits,

1 as described in clause (ii), of each such  
2 study or proposed modification.

3 (ii) BENEFITS.—The benefits (or ex-  
4 pected benefits, in the case of a proposed  
5 project study) described in this clause are  
6 benefits to—

7 (I) the protection of human life  
8 and property;

9 (II) improvement to domestic ir-  
10 rigated water and power supplies;

11 (III) the national economy;

12 (IV) the environment; or

13 (V) the national security inter-  
14 ests of the United States.

15 (C) IDENTIFICATION OF OTHER FAC-  
16 TORS.—The Secretary shall identify in the an-  
17 nual report, to the extent practicable—

18 (i) for each proposed project study in-  
19 cluded in the annual report, the non-Fed-  
20 eral interest that submitted the proposed  
21 project study pursuant to subsection (b);  
22 and

23 (ii) for each proposed project study  
24 and proposed modification to a project or  
25 project study included in the annual re-



port, whether the non-Federal interest has demonstrated—

(I) that local support exists for the proposed project study or proposed modification to an authorized project or project study (including the surface water storage development project that is the subject of the proposed feasibility study or the proposed modification to an authorized project study); and

(II) the financial ability to provide the required non-Federal cost share.

(2) TRANSPARENCY.—The Secretary shall include in the annual report, for each project report, proposed project study, and proposed modification to a project or project study included under paragraph (1)(A)—

(A) the name of the associated non-Federal interest, including the name of any non-Federal interest that has contributed, or is expected to contribute, a non-Federal share of the cost of—

(i) the project report;

- 1 (ii) the proposed project study;
- 2 (iii) the authorized project study for
- 3 which the modification is proposed; or
- 4 (iv) construction of—
  - 5 (I) the project that is the subject
  - 6 of—
    - 7 (aa) the water report;
    - 8 (bb) the proposed project
    - 9 study; or
    - 10 (cc) the authorized project
    - 11 study for which a modification is
    - 12 proposed; or
    - 13 (II) the proposed modification to
    - 14 a project;
    - 15 (B) a letter or statement of support for the
    - 16 water report, proposed project study, or pro-
    - 17 posed modification to a project or project study
    - 18 from each associated non-Federal interest;
    - 19 (C) the purpose of the feasibility report,
    - 20 proposed feasibility study, or proposed modi-
    - 21 fication to a project or project study;
    - 22 (D) an estimate, to the extent practicable,
    - 23 of the Federal, non-Federal, and total costs
    - 24 of—

1 (i) the proposed modification to an  
2 authorized project study; and

3 (ii) construction of—

4 (I) the project that is the subject  
5 of—

6 (aa) the project report; or

7 (bb) the authorized project  
8 study for which a modification is  
9 proposed, with respect to the  
10 change in costs resulting from  
11 such modification; or

12 (II) the proposed modification to  
13 an authorized project; and

14 (E) an estimate, to the extent practicable,  
15 of the monetary and nonmonetary benefits of—

16 (i) the project that is the subject of—

17 (I) the project report; or

18 (II) the authorized project study  
19 for which a modification is proposed,  
20 with respect to the benefits of such  
21 modification; or

22 (ii) the proposed modification to an  
23 authorized project.

24 (3) CERTIFICATION.—The Secretary shall in-  
25 clude in the annual report a certification stating

1       that each feasibility report, proposed feasibility  
2       study, and proposed modification to a project or  
3       project study included in the annual report meets  
4       the criteria established in paragraph (1)(A).

5           (4) APPENDIX.—The Secretary shall include in  
6       the annual report an appendix listing the proposals  
7       submitted under subsection (b) that were not in-  
8       cluded in the annual report under paragraph (1)(A)  
9       and a description of why the Secretary determined  
10      that those proposals did not meet the criteria for in-  
11      clusion under such paragraph.

12      (d) SPECIAL RULE FOR INITIAL ANNUAL REPORT.—

13   Notwithstanding any other deadlines required by this sec-  
14   tion, the Secretary shall—

15           (1) not later than 60 days after the date of en-  
16      actment of this Act, publish in the Federal Register  
17      a notice required by subsection (b)(1); and

18           (2) include in such notice a requirement that  
19      non-Federal interests submit to the Secretary any  
20      proposals described in subsection (b)(1) by not later  
21      than 120 days after the date of publication of such  
22      notice in the Federal Register in order for such pro-  
23      posals to be considered for inclusion in the first an-  
24      nual report developed by the Secretary under this  
25      section.

1 (e) PUBLICATION.—Upon submission of an annual  
 2 report to Congress, the Secretary shall make the annual  
 3 report publicly available, including through publication on  
 4 the Internet.

5 (f) DEFINITION.—In this section, the term “project  
 6 report” means a final feasibility report developed under  
 7 the Reclamation Act of 1902 (32 Stat. 388), and all Acts  
 8 amendatory thereof or supplementary thereto.

9 **TITLE IX—ACCELERATED REV-**  
 10 **ENUE, REPAYMENT, AND SUR-**  
 11 **FACE WATER STORAGE EN-**  
 12 **HANCEMENT**

13 **SEC. 901. SHORT TITLE.**

14 This title may be cited as the “Accelerated Revenue,  
 15 Repayment, and Surface Water Storage Enhancement  
 16 Act”.

17 **SEC. 902. PREPAYMENT OF CERTAIN REPAYMENT CON-**  
 18 **TRACTS BETWEEN THE UNITED STATES AND**  
 19 **CONTRACTORS OF FEDERALLY DEVELOPED**  
 20 **WATER SUPPLIES.**

21 (a) CONVERSION AND PREPAYMENT OF CON-  
 22 TRACTS.—

23 (1) CONVERSION.—Upon request of the con-  
 24 tractor, the Secretary of the Interior shall convert  
 25 any water service contract in effect on the date of

1 enactment of this Act and between the United  
2 States and a water users' association to allow for  
3 prepayment of the repayment contract pursuant to  
4 paragraph (2) under mutually agreeable terms and  
5 conditions. The manner of conversion under this  
6 paragraph shall be as follows:

7 (A) Water service contracts that were en-  
8 tered into under section 9(e) of the Act of Au-  
9 gust 4, 1939 (53 Stat. 1196), to be converted  
10 under this section shall be converted to repay-  
11 ment contracts under section 9(d) of that Act  
12 (53 Stat. 1195).

13 (B) Water service contracts that were en-  
14 tered under subsection (c)(2) of section 9 of the  
15 Act of August 4, 1939 (53 Stat. 1194), to be  
16 converted under this section shall be converted  
17 to a contract under subsection (c)(1) of section  
18 9 of that Act (53 Stat. 1195).

19 (2) PREPAYMENT.—Except for those repayment  
20 contracts under which the contractor has previously  
21 negotiated for prepayment, all repayment contracts  
22 under section 9(d) of that Act (53 Stat. 1195) in ef-  
23 fect on the date of enactment of this Act at the re-  
24 quest of the contractor, and all contracts converted  
25 pursuant to paragraph (1)(A) shall—

1           (A) provide for the repayment, either in  
2           lump sum or by accelerated prepayment, of the  
3           remaining construction costs identified in water  
4           project specific irrigation rate repayment sched-  
5           ules, as adjusted to reflect payment not re-  
6           flected in such schedule, and properly assign-  
7           able for ultimate return by the contractor, or if  
8           made in approximately equal installments, no  
9           later than 3 years after the effective date of the  
10          repayment contract, such amount to be dis-  
11          counted by  $\frac{1}{2}$  the Treasury rate. An estimate  
12          of the remaining construction costs, as ad-  
13          justed, shall be provided by the Secretary to the  
14          contractor no later than 90 days following re-  
15          ceipt of request of the contractor;

16          (B) require that construction costs or  
17          other capitalized costs incurred after the effec-  
18          tive date of the contract or not reflected in the  
19          rate schedule referenced in subparagraph (A),  
20          and properly assignable to such contractor shall  
21          be repaid in not more than 5 years after notifi-  
22          cation of the allocation if such amount is a re-  
23          sult of a collective annual allocation of capital  
24          costs to the contractors exercising contract con-  
25          versation under this subsection of less than

1           \$5,000,000. If such amount is \$5,000,000 or  
2           greater, such cost shall be repaid as provided by  
3           applicable reclamation law;

4           (C) provide that power revenues will not be  
5           available to aid in repayment of construction  
6           costs allocated to irrigation under the contract;  
7           and

8           (D) continue so long as the contractor  
9           pays applicable charges, consistent with section  
10          9(d) of the Act of August 4, 1939 (53 Stat.  
11          1195), and applicable law.

12          (3) CONTRACT REQUIREMENTS.—Except for  
13          those repayment contracts under which the con-  
14          tractor has previously negotiated for prepayment,  
15          the following shall apply with regard to all repay-  
16          ment contracts under subsection (c)(1) of section 9  
17          of that Act (53 Stat. 1195) in effect on the date of  
18          enactment of this Act at the request of the con-  
19          tractor, and all contracts converted pursuant to  
20          paragraph (1)(B):

21                (A) Provide for the repayment in lump  
22                sum of the remaining construction costs identi-  
23                fied in water project specific municipal and in-  
24                dustrial rate repayment schedules, as adjusted  
25                to reflect payments not reflected in such sched-



1           ule, and properly assignable for ultimate return  
2           by the contractor. An estimate of the remaining  
3           construction costs, as adjusted, shall be pro-  
4           vided by the Secretary to the contractor no  
5           later than 90 days after receipt of request of  
6           contractor.

7           (B) The contract shall require that con-  
8           struction costs or other capitalized costs in-  
9           curred after the effective date of the contract or  
10          not reflected in the rate schedule referenced in  
11          subparagraph (A), and properly assignable to  
12          such contractor, shall be repaid in not more  
13          than 5 years after notification of the allocation  
14          if such amount is a result of a collective annual  
15          allocation of capital costs to the contractors ex-  
16          ercising contract conversation under this sub-  
17          section of less than \$5,000,000. If such amount  
18          is \$5,000,000 or greater, such cost shall be re-  
19          paid as provided by applicable reclamation law.

20          (C) Continue so long as the contractor  
21          pays applicable charges, consistent with section  
22          9(c)(1) of the Act of August 4, 1939 (53 Stat.  
23          1195), and applicable law.

24          (4) CONDITIONS.—All contracts entered into  
25          pursuant to paragraphs (1), (2), and (3) shall—

1 (A) not be adjusted on the basis of the  
2 type of prepayment financing used by the water  
3 users' association;

4 (B) conform to any other agreements, such  
5 as applicable settlement agreements and new  
6 constructed appurtenant facilities; and

7 (C) not modify other water service, repay-  
8 ment, exchange and transfer contractual rights  
9 between the water users' association, and the  
10 Bureau of Reclamation, or any rights, obliga-  
11 tions, or relationships of the water users' asso-  
12 ciation and their landowners as provided under  
13 State law.

14 (b) ACCOUNTING.—The amounts paid pursuant to  
15 subsection (a) shall be subject to adjustment following a  
16 final cost allocation by the Secretary of the Interior. In  
17 the event that the final cost allocation indicates that the  
18 costs properly assignable to the contractor are greater  
19 than what has been paid by the contractor, the contractor  
20 shall be obligated to pay the remaining allocated costs.  
21 The term of such additional repayment contract shall be  
22 not less than one year and not more than 10 years, how-  
23 ever, mutually agreeable provisions regarding the rate of  
24 repayment of such amount may be developed by the par-  
25 ties. In the event that the final cost allocation indicates

1 that the costs properly assignable to the contractor are  
2 less than what the contractor has paid, the Secretary shall  
3 credit such overpayment as an offset against any out-  
4 standing or future obligation of the contractor.

5 (c) APPLICABILITY OF CERTAIN PROVISIONS.—

6 (1) EFFECT OF EXISTING LAW.—Upon a con-  
7 tractor's compliance with and discharge of the obli-  
8 gation of repayment of the construction costs pursu-  
9 ant to a contract entered into pursuant to subsection  
10 (a)(2)(A), subsections (a) and (b) of section 213 of  
11 the Reclamation Reform Act of 1982 (96 Stat.  
12 1269) shall apply to affected lands.

13 (2) EFFECT OF OTHER OBLIGATIONS.—The ob-  
14 ligation of a contractor to repay construction costs  
15 or other capitalized costs described in subsection  
16 (a)(2)(B), (a)(3)(B), or (b) shall not affect a con-  
17 tractor's status as having repaid all of the construc-  
18 tion costs assignable to the contractor or the appli-  
19 cability of subsections (a) and (b) of section 213 of  
20 the Reclamation Reform Act of 1982 (96 Stat.  
21 1269) once the amount required to be paid by the  
22 contractor under the repayment contract entered  
23 into pursuant to subsection (a)(2)(A) have been  
24 paid.

1 (d) EFFECT ON EXISTING LAW NOT ALTERED.—Im-  
2 plementation of the provisions of this title shall not alter—

3 (1) the repayment obligation of any water serv-  
4 ice or repayment contractor receiving water from the  
5 same water project, or shift any costs that would  
6 otherwise have been properly assignable to the water  
7 users' association identified in subsections (a)(1),  
8 (a)(2), and (a)(3) absent this section, including op-  
9 eration and maintenance costs, construction costs, or  
10 other capitalized costs incurred after the date of the  
11 enactment of this Act, or to other contractors; and

12 (2) specific requirements for the disposition of  
13 amounts received as repayments by the Secretary  
14 under the Act of June 17, 1902 (32 Stat. 388, chap-  
15 ter 1093), and Acts supplemental to and amend-  
16 atory of that Act (43 U.S.C. 371 et seq.).

17 (e) SURFACE WATER STORAGE ENHANCEMENT PRO-  
18 GRAM.—

19 (1) IN GENERAL.—Except as provided in sub-  
20 section (d)(2), three years following the date of en-  
21 actment of this Act, 50 percent of receipts generated  
22 from prepayment of contracts under this section be-  
23 yond amounts necessary to cover the amount of re-  
24 ceipts forgone from scheduled payments under cur-  
25 rent law for the 10-year period following the date of

1 enactment of this Act shall be directed to the Rec-  
2 lamation Surface Water Storage Account under  
3 paragraph (2).

4 (2) SURFACE STORAGE ACCOUNT.—The Sec-  
5 retary shall allocate amounts collected under para-  
6 graph (1) into the “Reclamation Surface Storage  
7 Account” to fund the construction of surface water  
8 storage. The Secretary may also enter into coopera-  
9 tive agreements with water users’ associations for  
10 the construction of surface water storage and  
11 amounts within the Surface Storage Account may be  
12 used to fund such construction. Surface water stor-  
13 age projects that are otherwise not federally author-  
14 ized shall not be considered Federal facilities as a  
15 result of any amounts allocated from the Surface  
16 Storage Account for part or all of such facilities.

17 (3) REPAYMENT.—Amounts used for surface  
18 water storage construction from the Account shall be  
19 fully reimbursed to the Account consistent with the  
20 requirements under Federal reclamation law (the  
21 law (the Act of June 17, 1902 (32 Stat. 388, chap-  
22 ter 1093))), and Acts supplemental to and amend-  
23 atory of that Act (43 U.S.C. 371 et seq.) except that  
24 all funds reimbursed shall be deposited in the Ac-  
25 count established under paragraph (2).

1           (4) AVAILABILITY OF AMOUNTS.—Amounts de-  
2       posited in the Account under this subsection shall—

3           (A) be made available in accordance with  
4       this section, subject to appropriation; and

5           (B) be in addition to amounts appropriated  
6       for such purposes under any other provision of  
7       law.

8           (5) PURPOSES OF SURFACE WATER STORAGE.—  
9       Construction of surface water storage under this sec-  
10      tion shall be made for the following purposes:

11          (A) Increased municipal and industrial  
12      water supply.

13          (B) Agricultural floodwater, erosion, and  
14      sedimentation reduction.

15          (C) Agricultural drainage improvements.

16          (D) Agricultural irrigation.

17          (E) Increased recreation opportunities.

18          (F) Reduced adverse impacts to fish and  
19      wildlife from water storage or diversion projects  
20      within watersheds associated with water storage  
21      projects funded under this section.

22          (G) Any other purposes consistent with  
23      reclamation laws or other Federal law.

24      (f) DEFINITIONS.—For the purposes of this title, the  
25      following definitions apply:

1           (1) ACCOUNT.—The term “Account” means the  
2       Reclamation Surface Water Storage Account estab-  
3       lished under subsection (e)(2).

4           (2) CONSTRUCTION.—The term “construction”  
5       means the designing, materials engineering and test-  
6       ing, surveying, and building of surface water storage  
7       including additions to existing surface water storage  
8       and construction of new surface water storage facili-  
9       ties, exclusive of any Federal statutory or regulatory  
10      obligations relating to any permit, review, approval,  
11      or other such requirement.

12          (3) SURFACE WATER STORAGE.—The term  
13      “surface water storage” means any federally owned  
14      facility under the jurisdiction of the Bureau of Rec-  
15      lamation or any non-Federal facility used for the  
16      surface storage and supply of water resources.

17          (4) TREASURY RATE.—The term “Treasury  
18      rate” means the 20-year Constant Maturity Treas-  
19      ury (CMT) rate published by the United States De-  
20      partment of the Treasury existing on the effective  
21      date of the contract.

22          (5) WATER USERS’ ASSOCIATION.—The term  
23      “water users’ association” means—

24              (A) an entity organized and recognized  
25      under State laws that is eligible to enter into

contracts with reclamation to receive contract water for delivery to and users of the water and to pay applicable charges; and

(B) includes a variety of entities with different names and differing functions, such as associations, conservatory district, irrigation district, municipality, and water project contract unit.

## **TITLE X—SAFETY OF DAMS**

### **SEC. 1001. AUTHORIZATION OF ADDITIONAL PROJECT BENEFITS.**

The Reclamation Safety of Dams Act of 1978 is amended—

(1) in section 3, by striking “Construction” and inserting “Except as provided in section 5B, construction”; and

(2) by inserting after section 5A (43 U.S.C. 509) the following:

### **“SEC. 5B. AUTHORIZATION OF ADDITIONAL PROJECT BENEFITS.**

“Notwithstanding section 3, if the Secretary determines that additional project benefits, including but not limited to additional conservation storage capacity, are feasible and not inconsistent with the purposes of this Act, the Secretary is authorized to develop additional project



1 benefits through the construction of new or supplementary  
2 works on a project in conjunction with the Secretary's ac-  
3 tivities under section 2 of this Act and subject to the con-  
4 ditions described in the feasibility study, provided—

5           “(1) the Secretary determines that developing  
6 additional project benefits through the construction  
7 of new or supplementary works on a project will pro-  
8 mote more efficient management of water and  
9 water-related facilities;

10           “(2) the feasibility study pertaining to addi-  
11 tional project benefits has been authorized pursuant  
12 to section 8 of the Federal Water Project Recreation  
13 Act of 1965 (16 U.S.C. 4601–18); and

14           “(3) the costs associated with developing the  
15 additional project benefits are agreed to in writing  
16 between the Secretary and project proponents and  
17 shall be allocated to the authorized purposes of the  
18 structure and repaid consistent with all provisions of  
19 Federal Reclamation law (the Act of June 17, 1902,  
20 43 U.S.C. 371 et seq.) and Acts supplemental to  
21 and amendatory of that Act.”.

1           **TITLE XI—WATER RIGHTS**  
2                           **PROTECTION**

3   **SEC. 1101. SHORT TITLE.**

4           This title may be cited as the “Water Rights Protec-  
5   tion Act”.

6   **SEC. 1102. DEFINITION OF WATER RIGHT.**

7           In this title, the term “water right” means any sur-  
8   face or groundwater right filed, permitted, certified, con-  
9   firmed, decreed, adjudicated, or otherwise recognized by  
10   a judicial proceeding or by the State in which the user  
11   acquires possession of the water or puts the water to bene-  
12   ficial use, including water rights for federally recognized  
13   Indian tribes.

14   **SEC. 1103. TREATMENT OF WATER RIGHTS.**

15           The Secretary of the Interior and the Secretary of  
16   Agriculture shall not—

17               (1) condition or withhold, in whole or in part,  
18           the issuance, renewal, amendment, or extension of  
19           any permit, approval, license, lease, allotment, ease-  
20           ment, right-of-way, or other land use or occupancy  
21           agreement on—

22                       (A) limitation or encumbrance of any  
23           water right, or the transfer of any water right  
24           (including joint and sole ownership), directly or

1 indirectly to the United States or any other des-  
2 ignee; or

3 (B) any other impairment of any water  
4 right, in whole or in part, granted or otherwise  
5 recognized under State law, by Federal or State  
6 adjudication, decree, or other judgment, or pur-  
7 suant to any interstate water compact;

8 (2) require any water user (including any feder-  
9 ally recognized Indian tribe) to apply for or acquire  
10 a water right in the name of the United States  
11 under State law as a condition of the issuance, re-  
12 newal, amendment, or extension of any permit, ap-  
13 proval, license, lease, allotment, easement, right-of-  
14 way, or other land use or occupancy agreement;

15 (3) assert jurisdiction over groundwater with-  
16 drawals or impacts on groundwater resources, unless  
17 jurisdiction is asserted, and any regulatory or policy  
18 actions taken pursuant to such assertion are, con-  
19 sistent with, and impose no greater restrictions or  
20 regulatory requirements than, applicable State laws  
21 (including regulations) and policies governing the  
22 protection and use of groundwater resources; or

23 (4) infringe on the rights and obligations of a  
24 State in evaluating, allocating, and adjudicating the  
25 waters of the State originating on or under, or flow-

1 ing from, land owned or managed by the Federal  
2 Government.

3 **SEC. 1104. RECOGNITION OF STATE AUTHORITY.**

4 (a) IN GENERAL.—In carrying out section 1103, the  
5 Secretary of the Interior and the Secretary of Agriculture  
6 shall—

7 (1) recognize the longstanding authority of the  
8 States relating to evaluating, protecting, allocating,  
9 regulating, and adjudicating groundwater by any  
10 means, including a rulemaking, permitting, directive,  
11 water court adjudication, resource management  
12 planning, regional authority, or other policy; and

13 (2) coordinate with the States in the adoption  
14 and implementation by the Secretary of the Interior  
15 or the Secretary of Agriculture of any rulemaking,  
16 policy, directive, management plan, or other similar  
17 Federal action so as to ensure that such actions are  
18 consistent with, and impose no greater restrictions  
19 or regulatory requirements than, State groundwater  
20 laws and programs.

21 (b) EFFECT ON STATE WATER RIGHTS.—In carrying  
22 out this title, the Secretary of the Interior and the Sec-  
23 retary of Agriculture shall not take any action that ad-  
24 versely affects—

25 (1) any water rights granted by a State;

1           (2) the authority of a State in adjudicating  
2       water rights;

3           (3) definitions established by a State with re-  
4       spect to the term “beneficial use”, “priority of water  
5       rights”, or “terms of use”;

6           (4) terms and conditions of groundwater with-  
7       drawal, guidance and reporting procedures, and con-  
8       servation and source protection measures established  
9       by a State;

10          (5) the use of groundwater in accordance with  
11       State law; or

12          (6) any other rights and obligations of a State  
13       established under State law.

14   **SEC. 1105. EFFECT OF TITLE.**

15       (a) EFFECT ON EXISTING AUTHORITY.—Nothing in  
16       this title limits or expands any existing legally recognized  
17       authority of the Secretary of the Interior or the Secretary  
18       of Agriculture to issue, grant, or condition any permit, ap-  
19       proval, license, lease, allotment, easement, right-of-way, or  
20       other land use or occupancy agreement on Federal land  
21       subject to the jurisdiction of the Secretary of the Interior  
22       or the Secretary of Agriculture, respectively.

23       (b) EFFECT ON RECLAMATION CONTRACTS.—Noth-  
24       ing in this title interferes with Bureau of Reclamation con-  
25       tracts entered into pursuant to the reclamation laws.

1       (c) EFFECT ON ENDANGERED SPECIES ACT.—Noth-  
2 ing in this title affects the implementation of the Endan-  
3 gered Species Act of 1973 (16 U.S.C. 1531 et seq.).

4       (d) EFFECT ON FEDERAL RESERVED WATER  
5 RIGHTS.—Nothing in this title limits or expands any exist-  
6 ing or claimed reserved water rights of the Federal Gov-  
7 ernment on land administered by the Secretary of the In-  
8 terior or the Secretary of Agriculture.

9       (e) EFFECT ON FEDERAL POWER ACT.—Nothing in  
10 this title limits or expands authorities under sections 4(e),  
11 10(j), or 18 of the Federal Power Act (16 U.S.C. 797(e),  
12 803(j), 811).

13       (f) EFFECT ON INDIAN WATER RIGHTS.—Nothing in  
14 this title limits or expands any water right or treaty right  
15 of any federally recognized Indian tribe.

Passed the House of Representatives July 16, 2015.

Attest:

*Clerk.*



114<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**H. R. 2898**

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**AN ACT**

To provide drought relief in the State of California,  
and for other purposes.