

114TH CONGRESS
1ST SESSION

H. R. 2898

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 25, 2015

Mr. VALADAO (for himself, Mr. MCCARTHY, Mr. CALVERT, Mr. NUNES, Mr. LAMALFA, Mr. DENHAM, Mr. MCCLINTOCK, Mr. JOYCE, Mr. DIAZ-BALART, Mr. STEWART, Mr. SIMPSON, Mr. KNIGHT, Mr. COOK, Mr. RODNEY DAVIS of Illinois, Mrs. MIMI WALTERS of California, Mr. ROHR-ABACHER, Mr. HUNTER, Mr. ROYCE, Mr. ISSA, Mr. ZINKE, Mr. COSTA, Mr. AMODEI, Mr. HARDY, Mr. TIPTON, Mr. NEWHOUSE, and Mrs. LUMMIS) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide 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,*

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Western Water and American Food Security Act of
6 2015”.

1 (b) TABLE OF CONTENTS.—The table of contents of
 2 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.

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. Protection for State Water Project contractors.
- 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.

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:

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

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

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

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

16 (5) According to a study released by the Uni-
17 versity of California, Davis in July 2014, the
18 drought has led to the fallowing of 428,000 acres of
19 farmland, loss of \$810 million in crop revenue, loss
20 of \$203 million in dairy and other livestock value,
21 and increased groundwater pumping costs by \$454
22 million. The statewide economic costs are estimated
23 to be \$2.2 billion, with over 17,000 seasonal and
24 part-time agricultural jobs lost.

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

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

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

14 (9) The serious emergency described in para-
15 graph (4) requires—

16 (A) immediate and credible action that re-
17 spects the complexity of the water system of the
18 State and the importance of the water system
19 to the entire State; and

20 (B) policies that do not pit stakeholders
21 against one another, which history shows only
22 leads to costly litigation that benefits no one
23 and prevents any real solutions.

24 (10) Data on the difference between water de-
25 mand and reliable water supplies for various regions

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

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

22 (B) For Central Valley Project and State
23 Water Project water service contractors south
24 of the Delta and north of the Tehachapi moun-
25 tain range, if it is assumed that a water supply

1 deficit is the difference between reliable water
2 supplies, including maximum water contract de-
3 liveries, safe yield of groundwater, safe yield of
4 local and surface supplies and long-term con-
5 tracted water transfers, and water demands, in-
6 cluding water demands from agriculture, munic-
7 ipal and industrial and refuge contractors, then
8 the water supply deficit ranges between ap-
9 proximately 2,500,000 to 2,700,000 acre-feet.

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

16 (12) Data of field sampling activities of the
17 Interagency Ecological Program located in the Sac-
18 ramento-San Joaquin Estuary identifies that, on av-
19 erage from 2005 to 2013, the program “takes”
20 3,500 delta smelt during annual surveys with an au-
21 thorized “take” level of 33,480 delta smelt annu-
22 ally—according to the biological opinion issued De-
23 cember 9, 1997.

24 (13) In 2015, better information exists than
25 was known in 2008 concerning conditions and oper-

1 ations that may or may not lead to high salvage
2 events that jeopardize the fish populations, and what
3 alternative management actions can be taken to
4 avoid jeopardy.

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

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

17 **SEC. 3. DEFINITIONS.**

18 In this Act:

19 (1) DELTA.—The term “Delta” means the Sac-
20 ramento-San Joaquin Delta and the Suisun Marsh,
21 as defined in sections 12220 and 29101 of the Cali-
22 fornia Public Resources Code.

23 (2) EXPORT PUMPING RATES.—The term “ex-
24 port pumping rates” means the rates of pumping at

1 the C.W. “Bill” Jones Pumping Plant and the Har-
2 vey O. Banks Pumping Plant, in the southern Delta.

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

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

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

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

21 (7) OMR FLOW OF $-5,000$ CUBIC FEET PER
22 SECOND.—The term “OMR flow of $-5,000$ cubic
23 feet per second” means Old and Middle River flow
24 of negative $5,000$ cubic feet per second as described
25 in—

1 (A) the smelt biological opinion; and

2 (B) the salmonid biological opinion.

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

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

13 (10) STATE.—The term “State” means the
14 State of California.

15 **TITLE I—ADJUSTING DELTA**
16 **SMELT MANAGEMENT BASED**
17 **ON INCREASED REAL-TIME**
18 **MONITORING AND UPDATED**
19 **SCIENCE**

20 **SEC. 101. DEFINITIONS.**

21 In this title:

22 (1) DIRECTOR.—The term “Director” means
23 the Director of the United States Fish and Wildlife
24 Service.

1 (2) DELTA SMELT.—The term “Delta smelt”
2 means the fish species with the scientific name
3 Hypomesus transpacificus.

4 (3) SECRETARY.—The term “Secretary” means
5 the Secretary of the Interior.

6 (4) COMMISSIONER.—The term “Commis-
7 sioner” means the Commissioner of the Bureau of
8 Reclamation.

9 **SEC. 102. REVISE INCIDENTAL TAKE LEVEL CALCULATION**
10 **FOR DELTA SMELT TO REFLECT NEW**
11 **SCIENCE.**

12 (a) REVIEW AND MODIFICATION.—Not later than
13 October 1, 2016, and at least every five years thereafter,
14 the Director, in cooperation with other Federal, State, and
15 local agencies, shall use the best scientific and commercial
16 data available to complete a review and, modify the meth-
17 od used to calculate the incidental take levels for adult
18 and larval/juvenile Delta smelt in the smelt biological opin-
19 ion that takes into account all life stages, among other
20 considerations—

21 (1) salvage information collected since at least
22 1993;

23 (2) updated or more recently developed statis-
24 tical models;

25 (3) updated scientific and commercial data; and

1 (4) the most recent information regarding the
2 environmental factors affecting Delta smelt salvage.

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

8 (1) be normalized for the abundance of
9 prespawning adult Delta smelt using the Fall
10 Midwater Trawl Index or other index;

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

15 (3) base the simulation on a correlation between
16 annual salvage rates and historic water clarity and
17 OMR flow during the adult salvage period; and

18 (4) set the incidental take level as the 80 per-
19 cent upper prediction interval derived from simu-
20 lated salvage rates since at least 1993.

21 **SEC. 103. FACTORING INCREASED REAL-TIME MONITORING**
22 **AND UPDATED SCIENCE INTO DELTA SMELT**
23 **MANAGEMENT.**

24 (a) IN GENERAL.—The Director shall use the best
25 scientific and commercial data available to implement,

1 continuously evaluate, and refine or amend, as appro-
2 priate, the reasonable and prudent alternative described
3 in the smelt biological opinion, and any successor opinions
4 or court order. The Secretary shall make all significant
5 decisions under the smelt biological opinion, or any suc-
6 cessor opinions that affect Central Valley Project and
7 State Water Project operations, in writing, and shall docu-
8 ment the significant facts upon which such decisions are
9 made, consistent with section 706 of title 5, United States
10 Code.

11 (b) INCREASED MONITORING TO INFORM REAL-
12 TIME OPERATIONS.—The Secretary shall conduct addi-
13 tional surveys, on an annual basis at the appropriate time
14 of the year based on environmental conditions, in collabo-
15 ration with other Delta science interests.

16 (1) In implementing this section, the Secretary
17 shall—

18 (A) use the most accurate survey methods
19 available for the detection of Delta smelt to de-
20 termine the extent that adult Delta smelt are
21 distributed in relation to certain levels of tur-
22 bidity, or other environmental factors that may
23 influence salvage rate; and

24 (B) use results from appropriate survey
25 methods for the detection of Delta smelt to de-

1 termine how the Central Valley Project and
2 State Water Project may be operated more effi-
3 ciently to minimize salvage while maximizing
4 export pumping rates without causing a signifi-
5 cant negative impact on the long-term survival
6 of the Delta smelt.

7 (2) During the period beginning on December
8 1, 2015, and ending March 31, 2016, and in each
9 successive December through March period, if sus-
10 pended sediment loads enter the Delta from the Sac-
11 ramento River and the suspended sediment loads ap-
12 pear likely to raise turbidity levels in the Old River
13 north of the export pumps from values below 12
14 Nephelometric Turbidity Units (NTU) to values
15 above 12 NTU, the Secretary shall—

16 (A) conduct daily monitoring using appro-
17 priate survey methods at locations including,
18 but not limited to, the vicinity of Station 902
19 to determine the extent that adult Delta smelt
20 are moving with turbidity toward the export
21 pumps; and

22 (B) use results from the monitoring sur-
23 veys referenced in paragraph (A) to determine
24 how increased trawling can inform daily real-
25 time Central Valley Project and State Water

1 Project operations to minimize salvage while
2 maximizing export pumping rates without caus-
3 ing a significant negative impact on the long-
4 term survival of the Delta smelt.

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

8 (1) evaluate whether the monitoring program
9 under subsection (b), combined with other moni-
10 toring programs for the Delta, is providing sufficient
11 data to inform Central Valley Project and State
12 Water Project operations to minimize salvage while
13 maximizing export pumping rates without causing a
14 significant negative impact on the long-term survival
15 of the Delta smelt; and

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

19 (d) DELTA SMELT DISTRIBUTION STUDY.—

20 (1) IN GENERAL.—No later than January 1,
21 2016, and at least every five years thereafter, the
22 Secretary, in collaboration with the California De-
23 partment of Fish and Wildlife, the California De-
24 partment of Water Resources, public water agencies,
25 and other interested entities, shall implement new

1 targeted sampling and monitoring specifically de-
2 signed to understand Delta smelt abundance, dis-
3 tribution, and the types of habitat occupied by Delta
4 smelt during all life stages.

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

7 (A) include recording water quality and
8 tidal data;

9 (B) be designed to understand Delta smelt
10 abundance, distribution, habitat use, and move-
11 ment throughout the Delta, Suisun Marsh, and
12 other areas occupied by the Delta smelt during
13 all seasons;

14 (C) consider areas not routinely sampled
15 by existing monitoring programs, including wet-
16 land channels, near-shore water, depths below
17 35 feet, and shallow water; and

18 (D) use survey methods, including sam-
19 pling gear, best suited to collect the most accu-
20 rate data for the type of sampling or moni-
21 toring.

22 (e) SCIENTIFICALLY SUPPORTED IMPLEMENTATION
23 OF OLD AND MIDDLE RIVER FLOW REQUIREMENTS.—In
24 implementing the provisions of the smelt biological opin-
25 ion, or any successor biological opinion or court order, per-

1 taining to management of reverse flow in the Old and Mid-
2 dle River, the Secretary shall—

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

5 (2) to maximize Central Valley project and
6 State Water Project water supplies, manage export
7 pumping rates to achieve a reverse flow rate in Old
8 and Middle River of $-5,000$ cubic feet per second
9 unless information developed by the Secretary under
10 paragraphs (3) and (4) leads the Secretary to rea-
11 sonably conclude that a less negative OMR flow rate
12 is necessary to avoid a negative impact on the long-
13 term survival of the Delta smelt. If information
14 available to the Secretary indicates that a reverse
15 flow rate in Old and Middle River more negative
16 than $-5,000$ cubic feet per second can be estab-
17 lished without an imminent negative impact on the
18 long-term survival of the Delta smelt, the Secretary
19 shall manage export pumping rates to achieve that
20 more negative OMR flow rate;

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

24 (A) whether targeted real-time fish moni-
25 toring in the Old River pursuant to this section,

1 including monitoring in the vicinity of Station
2 902, indicates that a significant negative impact
3 on the long-term survival of the Delta smelt is
4 imminent; and

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

11 (4) show in writing that any determination to
12 manage OMR reverse flow at rates less negative
13 than $-5,000$ cubic feet per second is necessary to
14 avoid a significant negative impact on the long-term
15 survival of the Delta smelt, including an explanation
16 of the data examined and the connection between
17 those data and the choice made, after considering—

18 (A) the distribution of Delta smelt
19 throughout the Delta;

20 (B) the potential effects of documented,
21 quantified entrainment on subsequent Delta
22 smelt abundance;

23 (C) the water temperature;

24 (D) other significant factors relevant to
25 the determination; and

1 (E) whether any alternative measures
2 could have a substantially lesser water supply
3 impact; and

4 (5) for any subsequent biological opinion, make
5 the showing required in paragraph (4) for any deter-
6 mination to manage OMR reverse flow at rates less
7 negative than the most negative limit in the biologi-
8 cal opinion if the most negative limit in the biologi-
9 cal opinion is more negative than $-5,000$ cubic feet
10 per second.

11 (f) MEMORANDUM OF UNDERSTANDING.—No later
12 than December 1, 2015, the Commissioner and the Direc-
13 tor will execute a Memorandum of Understanding (MOU)
14 to ensure that the smelt biological opinion is implemented
15 in a manner that maximizes water supply while complying
16 with applicable laws and regulations. If that MOU alters
17 any procedures set out in the biological opinion, there will
18 be no need to reinitiate consultation if those changes will
19 not have a significant negative impact on the long-term
20 survival on listed species and the implementation of the
21 MOU would not be a major change to implementation of
22 the biological opinion. Any change to procedures that does
23 not create a significant negative impact on the long-term
24 survival to listed species will not alter application of the
25 take permitted by the incidental take statement in the bio-

1 logical opinion under section 7(o)(2) of the Endangered
2 Species Act of 1973.

3 (g) CALCULATION OF REVERSE FLOW IN OMR.—

4 Within 90 days of the enactment of this title, the Sec-
5 retary is directed, in consultation with the California De-
6 partment of Water Resources to revise the method used
7 to calculate reverse flow in Old and Middle River for im-
8 plementation of the reasonable and prudent alternatives
9 in the smelt biological opinion and the salmonid biological
10 opinion, and any succeeding biological opinions, for the
11 purpose of increasing Central Valley Project and State
12 Water Project water supplies. The method of calculating
13 reverse flow in Old and Middle River shall be reevaluated
14 not less than every five years thereafter to achieve max-
15 imum export pumping rates within limits established by
16 the smelt biological opinion, the salmonid biological opin-
17 ion, and any succeeding biological opinions.

18 **TITLE II—ENSURING SALMONID**
19 **MANAGEMENT IS RESPON-**
20 **SIVE TO NEW SCIENCE**

21 **SEC. 201. DEFINITIONS.**

22 In this title:

23 (1) ASSISTANT ADMINISTRATOR.—The term
24 “Assistant Administrator” means the Assistant Ad-

1 administrator of National Oceanic and Atmospheric
2 Administration for Fisheries.

3 (2) SECRETARY.—The term “Secretary” means
4 the Secretary of Commerce.

5 (3) OTHER AFFECTED INTERESTS.—The term
6 “other affected interests” means the State of Cali-
7 fornia, Indian tribes, subdivisions of the State of
8 California, public water agencies and those who ben-
9 efit directly and indirectly from the operations of the
10 Central Valley Project and the State Water Project.

11 (4) COMMISSIONER.—The term “Commis-
12 sioner” means the Commissioner of the Bureau of
13 Reclamation.

14 (5) DIRECTOR.—The term “Director” means
15 the Director of the United States Fish and Wildlife
16 Service.

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

19 (a) GENERAL DIRECTIVE.—The reasonable and pru-
20 dent alternative described in the salmonid biological opin-
21 ion allows for and anticipates adjustments in Central Val-
22 ley Project and State Water Project operation parameters
23 to reflect the best scientific and commercial data currently
24 available, and authorizes efforts to test and evaluate im-
25 provements in operations that will meet applicable regu-

1 latory requirements and maximize Central Valley Project
2 and State Water Project water supplies and reliability.
3 Implementation of the reasonable and prudent alternative
4 described in the salmonid biological opinion shall be ad-
5 justed accordingly as new scientific and commercial data
6 are developed. The Commissioner and the Assistant Ad-
7 ministrator shall fully utilize these authorities as described
8 below.

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

13 (1) The Commissioner, with the assistance of
14 the Assistant Administrator, shall examine and iden-
15 tify adjustments to the initiation of Action IV.2.3 as
16 set forth in the Biological Opinion and Conference
17 Opinion on the Long-Term Operations of the Cen-
18 tral Valley Project and State Water Project, Endan-
19 gered Species Act Section 7 Consultation, issued by
20 the National Marine Fisheries Service on June 4,
21 2009, pertaining to negative OMR flows, subject to
22 paragraph (5).

23 (2) The Commissioner, with the assistance of
24 the Assistant Administrator, shall examine and iden-
25 tify adjustments in the timing, triggers or other

1 operational details relating to the implementation of
2 pumping restrictions in Action IV.2.1 pertaining to
3 the inflow to export ratio, subject to paragraph (5).

4 (3) Pursuant to the consultation and assess-
5 ments carried out under paragraphs (1) and (2) of
6 this subsection, the Commissioner and the Assistant
7 Administrator shall jointly make recommendations
8 to the Secretary of the Interior and to the Secretary
9 of Commerce on adjustments to project operations
10 that, in the exercise of the adaptive management
11 provisions of the salmonid biological opinion, will re-
12 duce water supply impacts of the salmonid biological
13 opinion on the Central Valley Project and the Cali-
14 fornia State Water Project and are consistent with
15 the requirements of applicable law and as further
16 described in subsection (c).

17 (4) The Secretary of Commerce and the Sec-
18 retary of the Interior shall direct the Commissioner
19 and Assistant Administrator to implement rec-
20 ommended adjustments to Central Valley Project
21 and State Water Project operations for which the
22 conditions under subsection (c) are met.

23 (5) The Assistant Administrator and the Com-
24 missioner shall review and identify adjustments to
25 Central Valley Project and State Water Project op-

1 erations with water supply restrictions in any suc-
2 cessor biological opinion to the salmonid biological
3 opinion, applying the provisions of this section to
4 those water supply restrictions where there are ref-
5 erences to Actions IV.2.1 and IV.2.3.

6 (c) IMPLEMENTATION OF OPERATIONAL ADJUST-
7 MENTS.—After reviewing the recommendations under sub-
8 section (b), the Secretary of the Interior and the Secretary
9 of Commerce shall direct the Commissioner and the As-
10 sistant Administrator to implement those operational ad-
11 justments, or any combination, for which, in aggregate—

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

16 (A) efforts to minimize the adverse effects
17 of the adjustment to project operations; and

18 (B) whatever additional actions or meas-
19 ures may be implemented in conjunction with
20 the adjustments to operations to offset the ad-
21 verse effects to listed species, consistent with
22 (d), that are in excess of the adverse effects of
23 the underlying operational parameters, if any;
24 and

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

4 (d) EVALUATION OF OFFSETTING MEASURES.—
5 When examining and identifying opportunities to offset
6 the potential adverse effect of adjustments to operations
7 under subsection (c)(1)(B), the Commissioner and the As-
8 sistant Administrator shall take into account the potential
9 species survival improvements that are likely to result
10 from other measures which, if implemented in conjunction
11 with such adjustments, would offset adverse effects, if any,
12 of the adjustments. When evaluating offsetting measures,
13 the Commissioner and the Assistant Administrator shall
14 consider the type, timing and nature of the adverse effects,
15 if any, to specific species and ensure that the measures
16 likely provide equivalent overall benefits to the listed spe-
17 cies in the aggregate, as long as the change will not cause
18 a significant negative impact on the long-term survival of
19 a listed salmonid species.

20 (e) FRAMEWORK FOR EXAMINING OPPORTUNITIES
21 TO MINIMIZE OR OFFSET THE POTENTIAL ADVERSE EF-
22 FECT OF ADJUSTMENTS TO OPERATIONS.—Not later than
23 December 31, 2015, and every five years thereafter, the
24 Assistant Administrator shall, in collaboration with the
25 Director of the California Department of Fish and Wild-

1 life, based on the best scientific and commercial data avail-
2 able and for each listed salmonid species, issue estimates
3 of the increase in through-Delta survival the Secretary ex-
4 pects to be achieved—

5 (1) through restrictions on export pumping
6 rates as specified by Action IV.2.3 as compared to
7 limiting OMR flow to a fixed rate of $\approx 5,000$ cubic
8 feet per second within the time period Action IV.2.3
9 is applicable, based on a given rate of San Joaquin
10 River inflow to the Delta and holding other relevant
11 factors constant;

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

19 (3) through physical habitat restoration im-
20 provements;

21 (4) through predation control programs;

22 (5) through the installation of temporary bar-
23 riers, the management of Cross Channel Gates oper-
24 ations, and other projects affecting flow in the
25 Delta;

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

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

8 (8) through development and implementation of
9 conservation hatchery programs for salmon and
10 steelhead to aid in the recovery of listed salmon and
11 steelhead species.

12 (f) SURVIVAL ESTIMATES.—

13 (1) To the maximum extent practicable, the As-
14 sistant Administrator shall make quantitative esti-
15 mates of survival such as a range of percentage in-
16 creases in through-Delta survival that could result
17 from the management measures, and if the scientific
18 information is lacking for quantitative estimates,
19 shall do so on qualitative terms based upon the best
20 available science.

21 (2) If the Assistant Administrator provides
22 qualitative survival estimates for a species resulting
23 from one or more management measures, the Sec-
24 retary shall, to the maximum extent feasible, rank
25 the management measures described in subsection

1 (e) in terms of their most likely expected contribu-
2 tion to increased through-Delta survival relative to
3 the other measures.

4 (3) If at the time the Assistant Administrator
5 conducts the reviews under subsection (b), the Sec-
6 retary has not issued an estimate of increased
7 through-Delta survival from different management
8 measures pursuant to subsection (e), the Secretary
9 shall compare the protections to the species from
10 different management measures based on the best
11 scientific and commercial data available at the time.

12 (g) COMPARISON OF ADVERSE CONSEQUENCES FOR
13 ALTERNATIVE MANAGEMENT MEASURES OF EQUIVALENT
14 PROTECTION FOR A SPECIES.—

15 (1) For the purposes of this subsection and
16 subsection (c)—

17 (A) the alternative management measure
18 or combination of alternative management
19 measures identified in paragraph (2) shall be
20 known as the “equivalent alternative measure”;

21 (B) the existing measure or measures iden-
22 tified in subparagraphs (2) (A), (B), (C), or
23 (D) shall be known as the “equivalent existing
24 measure”; and

1 (C) an “equivalent increase in through-
2 Delta survival rates for listed salmonid species”
3 shall mean an increase in through-Delta sur-
4 vival rates that is equivalent when considering
5 the change in through-Delta survival rates for
6 the listed salmonid species in the aggregate,
7 and not the same change for each individual
8 species, as long as the change in survival rates
9 will not cause a significant negative impact on
10 the long-term survival of a listed salmonid spe-
11 cies.

12 (2) As part of the reviews of project operations
13 pursuant to subsection (b), the Assistant Adminis-
14 trator shall determine whether any alternative man-
15 agement measures or combination of alternative
16 management measures listed in subsection (e) (3)
17 through (8) would provide an increase in through-
18 Delta survival rates for listed salmonid species that
19 is equivalent to the increase in through-Delta sur-
20 vival rates for listed salmonid species from the fol-
21 lowing:

22 (A) Through restrictions on export pump-
23 ing rates as specified by Action IV.2.3, as com-
24 pared to limiting OMR flow to a fixed rate of

1 – 5,000 cubic feet per second within the time
2 period Action IV.2.3 is applicable.

3 (B) Through restrictions on export pump-
4 ing rates as specified by Action IV.2.3, as com-
5 pared to a modification of Action IV.2.3 that
6 would provide additional water supplies, other
7 than that described in subparagraph (A).

8 (C) Through San Joaquin River inflow to
9 export restrictions on export pumping rates
10 specified within Action IV.2.1, as compared to
11 the restrictions in the April/May period imposed
12 by the State Water Resources Control Board
13 decision D–1641.

14 (D) Through San Joaquin River inflow to
15 export restrictions on export pumping rates
16 specified within Action IV.2.1, as compared to
17 a modification of Action IV.2.1 that would re-
18 duce water supply impacts of the salmonid bio-
19 logical opinion on the Central Valley Project
20 and the California State Water Project, other
21 than that described in subparagraph (C).

22 (3) If the Assistant Administrator identifies an
23 equivalent alternative measure pursuant to para-
24 graph (2), the Assistant Administrator shall deter-
25 mine whether—

1 (A) it is technically feasible and within
2 Federal jurisdiction to implement the equivalent
3 alternative measure;

4 (B) the State of California, or subdivision
5 thereof, or local agency with jurisdiction has
6 certified in writing within 10 calendar days to
7 the Assistant Administrator that it has the au-
8 thority and capability to implement the perti-
9 nent equivalent alternative measure; or

10 (C) the adverse consequences of doing so
11 are less than the adverse consequences of the
12 equivalent existing measure, including a concise
13 evaluation of the adverse consequences to other
14 affected interests.

15 (4) If the Assistant Administrator makes the
16 determinations in subparagraph (3)(A) or (3)(B),
17 the Commissioner shall adjust project operations to
18 implement the equivalent alternative measure in
19 place of the equivalent existing measure in order to
20 increase export rates of pumping to the greatest ex-
21 tent possible while maintaining a net combined effect
22 of equivalent through-Delta survival rates for the
23 listed salmonid species.

24 (h) TRACKING ADVERSE EFFECTS BEYOND THE
25 RANGE OF EFFECTS ACCOUNTED FOR IN THE SALMONID

1 BIOLOGICAL OPINION AND COORDINATED OPERATION
2 WITH THE DELTA SMELT BIOLOGICAL OPINION.—

3 (1) Among the adjustments to the project oper-
4 ations considered through the adaptive management
5 process under this section, the Assistant Adminis-
6 trator and the Commissioner shall—

7 (A) evaluate the effects on listed salmonid
8 species and water supply of the potential ad-
9 justment to operational criteria described in
10 subparagraph (B); and

11 (B) consider requiring that before some or
12 all of the provisions of Actions IV.2.1. or IV.2.3
13 are imposed in any specific instance, the Assist-
14 ant Administrator show that the implementa-
15 tion of these provisions in that specific instance
16 is necessary to avoid a significant negative im-
17 pact on the long-term survival of a listed
18 salmonid species.

19 (2) The Assistant Administrator, the Director,
20 and the Commissioner, in coordination with State of-
21 ficials as appropriate, shall establish operational cri-
22 teria to coordinate management of OMR flows under
23 the smelt and salmonid biological opinions, in order
24 to take advantage of opportunities to provide addi-

1 tional water supplies from the coordinated imple-
2 mentation of the biological opinions.

3 (3) The Assistant Administrator and the Com-
4 missioner shall document the effects of any adaptive
5 management decisions related to the coordinated op-
6 eration of the smelt and salmonid biological opinions
7 that prioritizes the maintenance of one species at the
8 expense of the other.

9 (i) REAL-TIME MONITORING AND MANAGEMENT.—
10 Notwithstanding the calendar based triggers described in
11 the salmonid biological opinion Reasonable and Prudent
12 Alternative (RPA), the Assistant Administrator and the
13 Commissioner shall not limit OMR reverse flow to $-5,000$
14 cubic feet per second unless current monitoring data indi-
15 cate that this OMR flow limitation is reasonably required
16 to avoid a significant negative impact on the long-term
17 survival of a listed salmonid species.

18 (j) EVALUATION AND IMPLEMENTATION OF MANAGE-
19 MENT MEASURES.—If the quantitative estimates of
20 through-Delta survival established by the Secretary for the
21 adjustments in subsection (b)(2) exceed the through-Delta
22 survival established for the RPAs, the Secretary shall
23 evaluate and implement the management measures in sub-
24 section (b)(2) as a prerequisite to implementing the RPAs
25 contained in the Salmonid Biological Opinion.

1 (k) ACCORDANCE WITH OTHER LAW.—Consistent
2 with section 706 of title 5, United States Code, decisions
3 of the Assistant Administrator and the Commissioner de-
4 scribed in subsections (b) through (j) shall be made in
5 writing, on the basis of best scientific and commercial data
6 currently available, and shall include an explanation of the
7 data examined at the connection between those data and
8 the decisions made.

9 **SEC. 203. NON-FEDERAL PROGRAM TO PROTECT NATIVE**
10 **ANADROMOUS FISH IN THE STANISLAUS**
11 **RIVER.**

12 (a) ESTABLISHMENT OF NONNATIVE PREDATOR
13 FISH REMOVAL PROGRAM.—The Secretary and the dis-
14 tricts, in consultation with the Director, shall jointly de-
15 velop and conduct a nonnative predator fish removal pro-
16 gram to remove nonnative striped bass, smallmouth bass,
17 largemouth bass, black bass, and other nonnative predator
18 fish species from the Stanislaus River. The program
19 shall—

20 (1) be scientifically based;

21 (2) include methods to quantify the number and
22 size of predator fish removed each year, the impact
23 of such removal on the overall abundance of pred-
24 ator fish, and the impact of such removal on the
25 populations of juvenile anadromous fish found in the

1 Stanislaus River by, among other things, evaluating
2 the number of juvenile anadromous fish that migrate
3 past the rotary screw trap located at Caswell;

4 (3) among other methods, use wire fyke trap-
5 ping, portable resistance board weirs, and boat
6 electrofishing; and

7 (4) be implemented as quickly as possible fol-
8 lowing the issuance of all necessary scientific re-
9 search.

10 (b) MANAGEMENT.—The management of the pro-
11 gram shall be the joint responsibility of the Secretary and
12 the districts. Such parties shall work collaboratively to en-
13 sure the performance of the program, and shall discuss
14 and agree upon, among other things, changes in the struc-
15 ture, management, personnel, techniques, strategy, data
16 collection, reporting, and conduct of the program.

17 (c) CONDUCT.—

18 (1) IN GENERAL.—By agreement between the
19 Secretary and the districts, the program may be con-
20 ducted by their own personnel, qualified private con-
21 tractors hired by the districts, personnel of, on loan
22 to, or otherwise assigned to the National Marine
23 Fisheries Service, or a combination thereof.

24 (2) PARTICIPATION BY THE NATIONAL MARINE
25 FISHERIES SERVICE.—If the districts elect to con-

1 duct the program using their own personnel or quali-
2 fied private contractors hired by them in accordance
3 with paragraph (1), the Secretary may assign an
4 employee of, on loan to, or otherwise assigned to the
5 National Marine Fisheries Service, to be present for
6 all activities performed in the field. Such presence
7 shall ensure compliance with the agreed-upon ele-
8 ments specified in subsection (b). The districts shall
9 pay the cost of such participation in accordance with
10 subsection (d).

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

16 (d) FUNDING.—

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

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

22 (3) ESTIMATION OF COST.—On or before De-
23 cember 1 of each year of the program, the Secretary
24 shall submit to the districts an estimate of the cost
25 to be incurred by the National Marine Fisheries

1 Service for the program in the following calendar
2 year, if any, including the cost of any data collection
3 and posting under subsection (e). If an amount
4 equal to the estimate is not provided through con-
5 tributions pursuant to paragraph (2) before Decem-
6 ber 31 of that year—

7 (A) the Secretary shall have no obligation
8 to conduct the program activities otherwise
9 scheduled for such following calendar year until
10 such amount is contributed by the districts; and

11 (B) the districts may not conduct any as-
12 pect of the program until such amount is con-
13 tributed by the districts.

14 (4) ACCOUNTING.—On or before September 1
15 of each year, the Secretary shall provide to the dis-
16 tricts an accounting of the costs incurred by the Sec-
17 retary for the program in the preceding calendar
18 year. If the amount contributed by the districts pur-
19 suant to paragraph (2) for that year was greater
20 than the costs incurred by the Secretary, the Sec-
21 retary shall—

22 (A) apply the excess contributions to costs
23 of activities to be performed by the Secretary
24 under the program, if any, in the next calendar
25 year; or

1 (B) if no such activities are to be per-
2 formed, repay the excess contribution to the
3 districts.

4 (e) POSTING AND EVALUATION.—On or before the
5 15th day of each month, the Secretary shall post on the
6 Internet website of the National Marine Fisheries Service
7 a tabular summary of the raw data collected under the
8 program in the preceding month.

9 (f) IMPLEMENTATION.—The program is hereby found
10 to be consistent with the requirements of the Central Val-
11 ley Project Improvement Act (Public Law 102–575). No
12 provision, plan or definition established or required by the
13 Central Valley Project Improvement Act (Public Law
14 102–575) shall be used to prohibit the imposition of the
15 program, or to prevent the accomplishment of its goals.

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

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

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 pends 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) help meet the contract water supply needs
10 of Central Valley Project refuges through the im-
11 provement or installation of water conservation
12 measures, water conveyance facilities, and wells to
13 use groundwater resources, on the condition that
14 those activities may only be accomplished by using
15 funding made available under Reclamation programs
16 of the Department of the Interior;

17 (2) make available to individuals or districts
18 who receive water from the United States under
19 water rights settlement contracts, exchange con-
20 tracts, water service or repayment contracts the ad-
21 ditional water obtained from the activities carried
22 out under subparagraph (1);

23 (3) in coordination with the California Depart-
24 ment of Water Resources and the California Depart-
25 ment of Fish and Wildlife, implement offsite up-

1 stream projects in the Delta and upstream of the
2 Sacramento River and San Joaquin basins that off-
3 set the effects on species listed as threatened or en-
4 dangered under the Endangered Species Act of 1973
5 (16 U.S.C. 1531 et seq.) due to activities carried out
6 pursuant this Act, as determined by the Secretaries;

7 (4) manage reverse flow in the Old and Middle
8 Rivers at $-6,100$ cubic feet per second if real-time
9 monitoring indicates that flows of $-6,100$ cubic feet
10 per second or more negative can be established for
11 specific periods without causing a significant nega-
12 tive impact on the long-term survival of the Delta
13 smelt, or if real-time monitoring does not support
14 flows of $-6,100$ cubic feet per second than manage
15 OMR flows at $-5,000$ cubic feet per second subject
16 to section 103(e) (3) and (4); and

17 (5) use all available scientific tools to identify
18 any changes to real-time operations of the Bureau of
19 Reclamation, State, and local water projects that
20 could result in the availability of additional water
21 supplies.

22 **SEC. 307. TEMPORARY OPERATIONAL FLEXIBILITY FOR**
23 **FIRST FEW STORMS OF THE WATER YEAR.**

24 (a) IN GENERAL.—Consistent with avoiding a signifi-
25 cant negative impact on the long-term survival in the short

1 term upon listed fish species beyond the range of those
2 authorized under the Endangered Species Act of 1973 and
3 other environmental protections under subsection (e), the
4 Secretaries shall authorize the Central Valley Project and
5 the State Water Project, combined, to operate at levels
6 that result in negative OMR flows at $-7,500$ cubic feet
7 per second (based on United States Geological Survey
8 gauges on Old and Middle Rivers) daily average for 56
9 cumulative days after October 1 as described in subsection
10 (c).

11 (b) DAYS OF TEMPORARY OPERATIONAL FLEXI-
12 BILITY.—The temporary operational flexibility described
13 in subsection (a) shall be authorized on days that the Cali-
14 fornia Department of Water Resources determines the
15 daily average river flow of the Sacramento River is at, or
16 above, 17,000 cubic feet per second as measured at the
17 Sacramento River at Freeport gauge maintained by the
18 United States Geologic Survey.

19 (c) COMPLIANCE WITH ENDANGERED SPECIES ACT
20 AUTHORIZATIONS.—In carrying out this section, the Sec-
21 retaries may continue to impose any requirements under
22 the smelt and salmonid biological opinions during any pe-
23 riod of temporary operational flexibility as they determine
24 are reasonably necessary to avoid an additional significant
25 negative impacts on the long-term survival of a listed fish

1 species beyond the range of those authorized under the
2 Endangered Species Act of 1973, provided that the re-
3 quirements imposed do not reduce water supplies available
4 for the Central Valley Project and the State Water
5 Project.

6 (d) OTHER ENVIRONMENTAL PROTECTIONS.—

7 (1) STATE LAW.—The Secretaries' actions
8 under this section shall be consistent with applicable
9 regulatory requirements under State law.

10 (2) FIRST SEDIMENT FLUSH.—During the first
11 flush of sediment out of the Delta in each water
12 year, and provided that such determination is based
13 upon objective evidence, OMR flow may be managed
14 at rates less negative than $-5,000$ cubic feet per
15 second for a minimum duration to avoid movement
16 of adult Delta smelt (*Hypomesus transpacificus*) to
17 areas in the southern Delta that would be likely to
18 increase entrainment at Central Valley Project and
19 State Water Project pumping plants.

20 (3) APPLICABILITY OF OPINION.—This section
21 shall not affect the application of the salmonid bio-
22 logical opinion from April 1 to May 31, unless the
23 Secretary of Commerce finds that some or all of
24 such applicable requirements may be adjusted dur-
25 ing this time period to provide emergency water sup-

1 ply relief without resulting in additional adverse ef-
2 fects beyond those authorized under the Endangered
3 Species Act of 1973. In addition to any other ac-
4 tions to benefit water supply, the Secretary of the
5 Interior and the Secretary of Commerce shall con-
6 sider allowing through-Delta water transfers to
7 occur during this period if they can be accomplished
8 consistent with section 3405(a)(1)(H) of the Central
9 Valley Project Improvement Act. Water transfers
10 solely or exclusively through the State Water Project
11 are not required to be consistent with section
12 3405(a)(1)(H) of the Central Valley Project Im-
13 provement Act.

14 (4) MONITORING.—During operations under
15 this section, the Commissioner of Reclamation, in
16 coordination with the Fish and Wildlife Service, Na-
17 tional Marine Fisheries Service, and California De-
18 partment of Fish and Wildlife, shall undertake a
19 monitoring program and other data gathering to en-
20 sure incidental take levels are not exceeded, and to
21 identify potential negative impacts and actions, if
22 any, necessary to mitigate impacts of the temporary
23 operational flexibility to species listed under the En-
24 dangered Species Act of 1973 (16 U.S.C. 1531–
25 1544).

1 (e) TECHNICAL ADJUSTMENTS TO TARGET PE-
2 RIOD.—If, before temporary operational flexibility has
3 been implemented on 56 cumulative days, the Secretaries
4 operate the Central Valley Project and the State Water
5 Project combined at levels that result in OMR flows less
6 negative than $-7,500$ cubic feet per second during days
7 of temporary operational flexibility as defined in sub-
8 section (c), the duration of such operation shall not be
9 counted toward the 56 cumulative days specified in sub-
10 section (a).

11 (f) EMERGENCY CONSULTATION; EFFECT ON RUN-
12 NING AVERAGES.—

13 (1) If necessary to implement the provisions of
14 this section, the Commissioner is authorized to take
15 any action necessary to implement this section for
16 up to 56 cumulative days. If during the 56 cumu-
17 lative days the Commissioner determines that ac-
18 tions necessary to implement this section will exceed
19 56 days, the Commissioner shall use the emergency
20 consultation procedures under the Endangered Spe-
21 cies Act of 1973 and its implementing regulation at
22 section 402.05 of title 50, Code of Federal Regula-
23 tions, to temporarily adjust the operating criteria
24 under the biological opinions—

1 (A) solely for extending beyond the 56 cu-
2 mulative days for additional days of temporary
3 operational flexibility—

4 (i) no more than necessary to achieve
5 the purposes of this section consistent with
6 the environmental protections in sub-
7 sections (d) and (e); and

8 (ii) including, as appropriate, adjust-
9 ments to ensure that the actual flow rates
10 during the periods of temporary oper-
11 ational flexibility do not count toward the
12 5-day and 14-day running averages of
13 tidally filtered daily OMR flow require-
14 ments under the biological opinions, or

15 (B) for other adjustments to operating cri-
16 teria or to take other urgent actions to address
17 water supply shortages for the least amount of
18 time or volume of diversion necessary as deter-
19 mined by the Commissioner.

20 (2) Following the conclusion of the 56 cumu-
21 lative days of temporary operational flexibility, or
22 the extended number of days covered by the emer-
23 gency consultation procedures, the Commissioner
24 shall not reinitiate consultation on these adjusted
25 operations, and no mitigation shall be required, if

1 the effects on listed fish species of these operations
2 under this section remain within the range of those
3 authorized under the Endangered Species Act of
4 1973 (16 U.S.C. 1531 et seq.). If the Commissioner
5 reinitiates consultation, no mitigation measures shall
6 be required.

7 (g) LEVEL OF DETAIL REQUIRED FOR ANALYSIS.—
8 In articulating the determinations required under this sec-
9 tion, the Secretaries shall fully satisfy the requirements
10 herein but shall not be expected to provide a greater level
11 of supporting detail for the analysis than feasible to pro-
12 vide within the short timeframe permitted for timely deci-
13 sionmaking in response to changing conditions in the
14 Delta.

15 **SEC. 308. EXPEDITING WATER TRANSFERS.**

16 (a) IN GENERAL.—Section 3405(a) of the Central
17 Valley Project Improvement Act (Public Law 102–575;
18 106 Stat. 4709(a)) is amended—

19 (1) by redesignating paragraphs (1) through
20 (3) as paragraphs (4) through (6), respectively;

21 (2) in the matter preceding paragraph (4) (as
22 so designated)—

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

25 “(1) IN GENERAL.—In order to”; and

1 (B) in the second sentence, by striking
2 “Except as provided herein” and inserting the
3 following:

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

6 (3) by inserting before paragraph (3) (as so
7 designated) the following:

8 “(2) EXPEDITED TRANSFER OF WATER.—The
9 Secretary shall take all necessary actions to facilitate
10 and expedite transfers of Central Valley Project
11 water in accordance with—

12 “(A) this Act;

13 “(B) any other applicable provision of the
14 reclamation laws; and

15 “(C) the National Environmental Policy
16 Act of 1969 (42 U.S.C. 4321 et seq.)”;

17 (4) in paragraph (4) (as so designated)—

18 (A) in subparagraph (A), by striking “to
19 combination” and inserting “or combination”;
20 and

21 (B) by striking “3405(a)(2) of this title”
22 each place it appears and inserting “(5)”;

23 (5) in paragraph (5) (as so designated), by add-
24 ing at the end the following:

1 “(E) The contracting district from which
2 the water is coming, the agency, or the Sec-
3 retary shall determine if a written transfer pro-
4 posal is complete within 45 days after the date
5 of submission of the proposal. If the contracting
6 district or agency or the Secretary determines
7 that the proposal is incomplete, the district or
8 agency or the Secretary shall state with speci-
9 ficity what must be added to or revised for the
10 proposal to be complete.”; and

11 (6) in paragraph (6) (as so designated), by
12 striking “3405(a)(1)(A)–(C), (E), (G), (H), (I), (L),
13 and (M) of this title” and inserting “(A) through
14 (C), (E), (G), (H), (I), (L), and (M) of paragraph
15 (4)”.

16 (b) CONFORMING AMENDMENTS.—The Central Val-
17 ley Project Improvement Act (Public Law 102–575) is
18 amended—

19 (1) in section 3407(c)(1) (106 Stat. 4726), by
20 striking “3405(a)(1)(C)” and inserting
21 “3405(a)(4)(C)”;

22 (2) in section 3408(i)(1) (106 Stat. 4729), by
23 striking “3405(a)(1) (A) and (J) of this title” and
24 inserting “subparagraphs (A) and (J) of section
25 3405(a)(4)”.

1 **SEC. 309. ADDITIONAL EMERGENCY CONSULTATION.**

2 For adjustments to operating criteria other than
3 under section 308 of this Act or to take urgent actions
4 to address water supply shortages for the least amount
5 of time or volume of diversion necessary as determined
6 by the Commissioner, no mitigation measures shall be re-
7 quired during any year that the Sacramento Valley index
8 is 6.5 or lower, or at the request of the State of California,
9 and until two succeeding years following either of those
10 events have been completed where the final Sacramento
11 Valley Index is 7.8 or greater, and any mitigation meas-
12 ures imposed must be based on quantitative data and re-
13 quired only to the extent that such data demonstrates ac-
14 tual harm to species.

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

16 The Commissioner of Reclamation is directed to work
17 with local water and irrigation districts in the Stanislaus
18 River Basin to ascertain the water storage made available
19 by the Draft Plan of Operations in New Melones Reservoir
20 (DRPO) for water conservation programs, conjunctive use
21 projects, water transfers, rescheduled project water and
22 other projects to maximize water storage and ensure the
23 beneficial use of the water resources in the Stanislaus
24 River Basin. All such programs and projects shall be im-
25 plemented according to all applicable laws and regulations.
26 The source of water for any such storage program at New

1 Melones Reservoir shall be made available under a valid
2 water right, consistent with the State of California water
3 transfer guidelines and any other applicable State water
4 law. The Commissioner shall inform the Congress within
5 18 months setting forth the amount of storage made avail-
6 able by the DRPO that has been put to use under this
7 program, including proposals received by Reclamation
8 from interested parties for the purpose of this section.

9 **SEC. 311. REGARDING THE OPERATION OF FOLSOM RES-**
10 **ERVOIR.**

11 The Secretary of the Interior, in collaboration with
12 the Sacramento Water Forum, shall expedite evaluation,
13 completion and implementation of the Modified Lower
14 American River Flow Management Standard developed by
15 the Water Forum in 2015 to improve water supply reli-
16 ability for Central Valley Project American River water
17 contractors and resource protection in the lower American
18 River during consecutive dry-years under current and fu-
19 ture demand and climate change conditions.

20 **SEC. 312. APPLICANTS.**

21 In the event that the Bureau of Reclamation or an-
22 other Federal agency initiates or reinitiates consultation
23 with the U.S. Fish and Wildlife Service or the National
24 Marine Fisheries Service under section 7(a)(2) of the En-
25 dangered Species Act of 1973 (16 U.S.C. 1536(a)(2)),

1 with respect to construction or operation of the Central
2 Valley Project and State Water Project, or any part there-
3 of, the State Water Project contractors and the Central
4 Valley Project contractors will be accorded all the rights
5 and responsibilities extended to applicants in the consulta-
6 tion process.

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

8 (a) CALIFORNIA STATE LAW SATISFIED BY WARM
9 WATER FISHERY.—

10 (1) IN GENERAL.—Sections 5930 through 5948
11 of the California Fish and Game Code, and all appli-
12 cable Federal laws, including the San Joaquin River
13 Restoration Settlement Act (Public Law 111–11)
14 and the Stipulation of Settlement (Natural Re-
15 sources Defense Council, et al. v. Kirk Rodgers, et
16 al., Eastern District of California, No. Civ. S–88–
17 1658–LKK/GGH), shall be satisfied by the existence
18 of a warm water fishery in the San Joaquin River
19 below Friant Dam, but upstream of Gravelly Ford.

20 (2) DEFINITION OF WARM WATER FISHERY.—

21 For the purposes of this section, the term “warm
22 water fishery” means a water system that has an
23 environment suitable for species of fish other than
24 salmon (including all subspecies) and trout (includ-
25 ing all subspecies).

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

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

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

1 **TITLE IV—CALFED STORAGE**
2 **FEASIBILITY STUDIES**

3 **SEC. 401. STUDIES.**

4 The Secretary of the Interior, through the Commis-
5 sioner of Reclamation, shall—

6 (1) complete the feasibility studies described in
7 clauses (i)(I) and (ii)(II) of section 103(d)(1)(A) of
8 Public Law 108–361 (118 Stat. 1684) and submit
9 such studies to the appropriate committees of the
10 House of Representatives and the Senate not later
11 than December 31, 2015;

12 (2) complete the feasibility studies described in
13 clauses (i)(II) and (ii)(I) of section 103(d)(1)(A) of
14 Public Law 108–361 and submit such studies to the
15 appropriate committees of the House of Representa-
16 tives and the Senate not later than November 30,
17 2016;

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

23 (4) provide a progress report on the status of
24 the feasibility studies referred to in paragraphs (1)
25 through (3) to the appropriate committees of the

1 House of Representatives and the Senate not later
2 than 90 days after the date of the enactment of this
3 Act and each 180 days thereafter until December
4 31, 2017, as applicable. The report shall include
5 timelines for study completion, draft environmental
6 impact statements, final environmental impact state-
7 ments, and Records of Decision; and

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

21 **SEC. 402. TEMPERANCE FLAT.**

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

23 (1) PROJECT.—The term “Project” means the
24 Temperance Flat Reservoir Project on the Upper
25 San Joaquin River.

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

5 (3) SECRETARY.—The term “Secretary” means
6 the Secretary of the Interior.

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

11 (1) the Project; or

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

15 (c) DUTIES OF SECRETARY UPON DETERMINATION
16 OF FEASIBILITY.—If the Secretary finds the Project to
17 be feasible, the Secretary shall manage the land rec-
18 ommended in the RMP for designation under the Wild and
19 Scenic Rivers Act (16 U.S.C. 1271 et seq.) in a manner
20 that does not impede any environmental reviews,
21 preconstruction, construction, or other activities of the
22 Project, regardless of whether or not the Secretary sub-
23 mits any official recommendation to Congress under the
24 Wild and Scenic Rivers Act.

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

6 **SEC. 403. CALFED STORAGE ACCOUNTABILITY.**

7 If the Secretary of the Interior fails to provide the
8 feasibility studies described in section 401 to the appro-
9 priate committees of the House of Representatives and the
10 Senate by the times prescribed, the amount made available
11 to the Policy and Administration Account of the Bureau
12 of Reclamation for the operation of the Washington, DC,
13 office shall be reduced by an amount of \$20,000 per day
14 and transferred to the Treasury for deficit reduction until
15 the feasibility reports are provided to Congress.

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

17 (a) PARTNERSHIP AND AGREEMENTS.—The Sec-
18 retary, acting through the Commissioner of the Bureau
19 of Reclamation, may partner or enter into an agreement
20 on the water storage projects identified in section
21 103(d)(1) of the Water Supply Reliability and Environ-
22 mental Improvement Act (Public Law 108–361) (and Acts
23 supplemental and amendatory to the Act) with local joint
24 powers authorities formed pursuant to State law by irriga-
25 tion districts and other local water districts and local gov-

1 ernments within the applicable hydrologic region, to ad-
2 vance those projects.

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

10 **TITLE V—WATER RIGHTS** 11 **PROTECTIONS**

12 **SEC. 501. PROTECTION FOR STATE WATER PROJECT CON-** 13 **TRACTORS.**

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

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

24 (1) revokes the consistency determinations pur-
25 suant to California Fish and Game Code section

1 2080.1 that are applicable to the State Water
2 Project;

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

10 (3) requires take authorization under section
11 2081 for operation of the State Water Project in a
12 manner that directly or indirectly results in reduced
13 water supply to the State Water Project as com-
14 pared with the water supply available under the
15 smelt biological opinion and the salmonid biological
16 opinion, and as a consequence of the Department's
17 action, Central Valley Project yield is greater than
18 it would have been absent the Department's actions,
19 then that additional yield shall be made available to
20 the State Water Project for delivery to State Water
21 Project contractors to offset losses resulting from
22 the Department's action.

23 (c) NOTIFICATION RELATED TO ENVIRONMENTAL
24 PROTECTIONS.—The Secretary of the Interior shall imme-
25 diately notify the Director of the California Department

1 of Fish and Wildlife in writing if the Secretary of the Inte-
2 rior determines that implementation of the smelt biological
3 opinion and the salmonid biological opinion consistent with
4 this Act reduces environmental protections for any species
5 covered by the opinions.

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

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

20 (b) DIVERSIONS.—Any action undertaken by the Sec-
21 retaries pursuant to both this Act and section 7 of the
22 Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)
23 that requires that diversions from the Sacramento River
24 or the San Joaquin River watersheds upstream of the
25 Delta be bypassed shall not be undertaken in a manner

1 that alters the water rights priorities established by Cali-
2 fornia law.

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

8 (d) CONTRACTS.—With respect to individuals and en-
9 tities with water rights on the Sacramento River, the man-
10 dates of this section may be met, in whole or in part,
11 through a contract with the Secretary executed pursuant
12 to section 14 of Public Law 76–260; 53 Stat. 1187 (43
13 U.S.C. 389) that is in conformance with the Sacramento
14 River Settlement Contracts renewed by the Secretary in
15 2005.

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

17 (a) IN GENERAL.—The Secretary of the Interior shall
18 ensure that, except as otherwise provided for in a water
19 service or repayment contract, actions taken in compliance
20 with legal obligations imposed pursuant to or as a result
21 of this Act, including such actions under section 7 of the
22 Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)
23 and other applicable Federal and State laws, shall not di-
24 rectly or indirectly—

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

8 (2) cause redirected adverse water supply or fis-
9 cal impacts to those within the Sacramento River
10 watershed, the San Joaquin River watershed or the
11 State Water Project service area.

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

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

22 (1) water service, repayment, settlement, pur-
23 chase, or exchange contract with the United States,
24 including the obligation to satisfy exchange contracts

1 and settlement contracts prior to the allocation of
2 any other Central Valley Project water; or

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

5 **SEC. 504. ALLOCATIONS FOR SACRAMENTO VALLEY CON-**
6 **TRACTORS.**

7 (a) ALLOCATIONS.—

8 (1) IN GENERAL.—Subject to paragraph (2)
9 and subsection (b), the Secretary of the Interior is
10 directed, in the operation of the Central Valley
11 Project, to allocate water provided for irrigation pur-
12 poses to existing Central Valley Project agricultural
13 water service contractors within the Sacramento
14 River Watershed in compliance with the following:

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

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

19 (C) Not less than 100 percent of their con-
20 tract quantities in a “Below Normal” year that
21 is preceded by an “Above Normal” or a “Wet”
22 year.

23 (D) Not less than 50 percent of their con-
24 tract quantities in a “Dry” year that is pre-

1 ceded by a “Below Normal,” an “Above Nor-
2 mal,” or a “Wet” year.

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

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

19 (A) the priority of individuals or entities
20 with Sacramento River water rights, including
21 those with Sacramento River Settlement Con-
22 tracts, that have priority to the diversion and
23 use of Sacramento River water over water
24 rights held by the United States for operations
25 of the Central Valley Project;

1 (B) the United States obligation to make
2 a substitute supply of water available to the
3 San Joaquin River Exchange Contractors; and

4 (C) the Secretary's obligation to make
5 water available to managed wetlands pursuant
6 to section 3406(d) of the Central Valley Project
7 Improvement Act (Public Law 102–575).

8 (b) PROTECTION OF MUNICIPAL AND INDUSTRIAL
9 SUPPLIES.—Nothing in subsection (a) shall be deemed
10 to—

11 (1) modify any provision of a water service con-
12 tract that addresses municipal and industrial water
13 shortage policies of the Secretary;

14 (2) affect or limit the authority of the Secretary
15 to adopt or modify municipal and industrial water
16 shortage policies;

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

20 (4) affect allocations to Central Valley Project
21 municipal and industrial contractors pursuant to
22 such policies, including the utilization of such alloca-
23 tions as primary water sources for these contractors
24 for purposes of calculating municipal and industrial
25 water shortages.

1 (c) NO EFFECT ON ALLOCATIONS.—This section
2 shall not result in the involuntary reduction in contract
3 water allocations to individuals or entities with contracts
4 to receive water from the Friant Division.

5 (d) PROGRAM FOR WATER RESCHEDULING.—The
6 Secretary of the Interior shall develop and implement a
7 program, not later than 1 year after the date of the enact-
8 ment of this Act, to provide for the opportunity for exist-
9 ing Central Valley Project agricultural water service con-
10 tractors within the Sacramento River Watershed to re-
11 schedule water, provided for under their Central Valley
12 Project water service contracts, from one year to the next.

13 (e) DEFINITIONS.—In this section:

14 (1) The term “existing Central Valley Project
15 agricultural water service contractors within the
16 Sacramento River Watershed” means water service
17 contractors within the Shasta, Trinity, and Sac-
18 ramento River Divisions of the Central Valley
19 Project, that have a water service contract in effect,
20 on the date of the enactment of this section, that
21 provides water for irrigation.

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

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

2 Nothing in this Act preempts or modifies any existing
3 obligation of the United States under Federal reclamation
4 law to operate the Central Valley Project in conformity
5 with State law, including established water rights prior-
6 ities.

7 **TITLE VI—MISCELLANEOUS**

8 **SEC. 601. AUTHORIZED SERVICE AREA.**

9 (a) IN GENERAL.—The authorized service area of the
10 Central Valley Project authorized under the Central Valley
11 Project Improvement Act (Public Law 102–575; 106 Stat.
12 4706) shall include the area within the boundaries of the
13 Kettleman City Community Services District, California,
14 as in existence on the date of enactment of this Act.

15 (b) LONG-TERM CONTRACT.—

16 (1) IN GENERAL.—Notwithstanding the Central
17 Valley Project Improvement Act (Public Law 102–
18 575; 106 Stat. 4706) and subject to paragraph (2),
19 the Secretary of the Interior, in accordance with the
20 Federal reclamation laws, shall enter into a long-
21 term contract with the Kettleman City Community
22 Services District, California, under terms and condi-
23 tions mutually agreeable to the parties, for the deliv-
24 ery of up to 900 acre-feet of Central Valley Project
25 water for municipal and industrial use.

1 (2) LIMITATION.—Central Valley Project water
2 deliveries authorized under the contract entered into
3 under paragraph (1) shall be limited to the minimal
4 quantity necessary to meet the immediate needs of
5 the Kettleman City Community Services District,
6 California, in the event that local supplies or State
7 Water Project allocations are insufficient to meet
8 those needs.

9 (c) PERMIT.—The Secretary shall apply for a permit
10 with the State for a joint place of use for water deliveries
11 authorized under the contract entered into under sub-
12 section (b) with respect to the expanded service area under
13 subsection (a), consistent with State law.

14 (d) ADDITIONAL COSTS.—If any additional infra-
15 structure, water treatment, or related costs are needed to
16 implement this section, those costs shall be the responsi-
17 bility of the non-Federal entity.

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

19 (a) PLAN; ADVISORY BOARD.—Section 3407 of the
20 Central Valley Project Improvement Act (Public Law
21 102–575; 106 Stat. 4726) is amended by adding at the
22 end the following:

23 “(g) PLAN ON EXPENDITURE OF FUNDS.—

24 “(1) IN GENERAL.—For each fiscal year, the
25 Secretary, in consultation with the Advisory Board,

1 shall submit to Congress a plan for the expenditure
2 of all of the funds deposited into the Restoration
3 Fund during the preceding fiscal year.

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

6 “(h) ADVISORY BOARD.—

7 “(1) ESTABLISHMENT.—There is established
8 the Restoration Fund Advisory Board (referred to in
9 this section as the ‘Advisory Board’), which shall be
10 composed of 11 members appointed by the Sec-
11 retary.

12 “(2) MEMBERSHIP.—

13 “(A) IN GENERAL.—The Secretary shall
14 appoint members to the Advisory Board that
15 represent the various Central Valley Project
16 stakeholders, of whom—

17 “(i) 4 members shall be agricultural
18 users of the Central Valley Project, includ-
19 ing at least one agricultural user from
20 north-of-the-Delta and one agricultural
21 user from south-of-the-Delta;

22 “(ii) 2 members shall be municipal
23 and industrial users of the Central Valley
24 Project, including one municipal and in-
25 dustrial user from north-of-the-Delta and

1 one municipal and industrial user from
2 south-of-the-Delta;

3 “(iii) 3 members shall be power con-
4 tractors of the Central Valley Project, in-
5 cluding at least one power contractor from
6 north-of-the-Delta and from south-of-the-
7 Delta;

8 “(iv) 1 member shall be a representa-
9 tive of a Federal national wildlife refuge
10 that contracts for Central Valley Project
11 water supplies with the Bureau of Rec-
12 lamation; and

13 “(v) 1 member shall have expertise in
14 the economic impacts of the changes to
15 water operations.

16 “(B) OBSERVER.—The Secretary and the
17 Secretary of Commerce may each designate a
18 representative to act as an observer of the Advi-
19 sory Board.

20 “(C) CHAIRMAN.—The Secretary shall ap-
21 point 1 of the members described in subpara-
22 graph (A) to serve as Chairman of the Advisory
23 Board.

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

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

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

6 “(B) in the case of a vacancy on the Panel
7 described in subsection (c)(2), the date that is
8 120 days after the date on which the vacancy
9 occurs.

10 “(5) VACANCIES.—

11 “(A) IN GENERAL.—A vacancy on the
12 Panel shall be filled in the manner in which the
13 original appointment was made and shall be
14 subject to any conditions that applied with re-
15 spect to the original appointment.

16 “(B) FILLING UNEXPIRED TERM.—An in-
17 dividual chosen to fill a vacancy shall be ap-
18 pointed for the unexpired term of the member
19 replaced.

20 “(C) EXPIRATION OF TERMS.—The term
21 of any member shall not expire before the date
22 on which the successor of the member takes of-
23 fice.

1 “(6) REMOVAL.—A member of the Panel may
2 be removed from office by the Secretary of the Inte-
3 rior.

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

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

9 “(A) to meet not less frequently than semi-
10 annually to develop and make recommendations
11 to the Secretary regarding priorities and spend-
12 ing levels on projects and programs carried out
13 under this title;

14 “(B) to ensure that any advice given or
15 recommendation made by the Advisory Board
16 reflects the independent judgment of the Advi-
17 sory Board;

18 “(C) not later than December 31, 2015,
19 and annually thereafter, to submit to the Sec-
20 retary and Congress the recommendations
21 under subparagraph (A); and

22 “(D) not later than December 31, 2015,
23 and biennially thereafter, to submit to Congress
24 details of the progress made in achieving the
25 actions required under section 3406.

1 “(9) ADMINISTRATION.—With the consent of
2 the appropriate agency head, the Advisory Board
3 may use the facilities and services of any Federal
4 agency.

5 “(10) COOPERATION AND ASSISTANCE.—

6 “(A) PROVISION OF INFORMATION.—Upon
7 request of the Panel Chair for information or
8 assistance to facilitate carrying out this section,
9 the Secretary of the Interior shall promptly pro-
10 vide such information, unless otherwise prohib-
11 ited by law.

12 “(B) SPACE AND ASSISTANCE.—The Sec-
13 retary of the Interior shall provide the Panel
14 with appropriate and adequate office space, to-
15 gether with such equipment, office supplies, and
16 communications facilities and services as may
17 be necessary for the operation of the Panel, and
18 shall provide necessary maintenance services for
19 such offices and the equipment and facilities lo-
20 cated therein.”.

21 **SEC. 603. WATER SUPPLY ACCOUNTING.**

22 (a) IN GENERAL.—All Central Valley Project water,
23 except Central Valley Project water released pursuant to
24 U.S. Department of the Interior Record of Decision, Trin-
25 ity River Mainstem Fishery Restoration Final Environ-

1 mental Impact Statement/Environmental Impact Report
2 dated the December 2000 used to implement an action
3 undertaken for a fishery beneficial purpose that was not
4 imposed by terms and conditions existing in licenses, per-
5 mits, and other agreements pertaining to the Central Val-
6 ley Project under applicable State or Federal law existing
7 on October 30, 1992, shall be credited to the quantity of
8 Central Valley Project yield dedicated and managed under
9 this section; provided, that nothing herein shall affect the
10 Secretary of the Interior's duty to comply with any other-
11 wise lawful requirement imposed on operations of the Cen-
12 tral Valley Project under any provision of Federal or State
13 law.

14 (b) RECLAMATION POLICIES AND ALLOCATIONS.—
15 Reclamation policies and allocations shall not be based
16 upon any premise or assumption that Central Valley
17 Project contract supplies are supplemental or secondary
18 to any other contractor source of supply.

19 **SEC. 604. IMPLEMENTATION OF WATER REPLACEMENT**
20 **PLAN.**

21 (a) IN GENERAL.—Not later than October 1, 2016,
22 the Secretary of the Interior shall update and implement
23 the plan required by section 3408(j) of title XXXIV of
24 Public Law 102–575. The Secretary shall provide reports
25 to the Congress annually describing the progress of imple-

1 menting the plan required by section 3408(j) of title
2 XXXIV of Public Law 102–575.

3 (b) FAILURE TO UPDATE AND IMPLEMENT PLAN.—

4 If the Secretary fails to update and implement the plan
5 required in subsection (a) within 180 days of enactment
6 of this Act, the amount made available to the Policy and
7 Administration Account of the Bureau of Reclamation for
8 the operation of the Washington, DC, office shall be re-
9 duced by an amount of \$20,000 per day and transferred
10 to the Treasury for deficit reduction until the feasibility
11 reports are provided to Congress.

12 (c) POTENTIAL AMENDMENT.—If the plan required
13 in subsection (a) has not increased the Central Valley
14 Project yield by 800,000 acre-feet within 5 years after the
15 enactment of this Act, then section 3406 of the Central
16 Valley Project Improvement Act (title XXXIV of Public
17 Law 102–575) is amended as follows:

18 (1) In subsection (b)—

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

20 “(C) If by March 15, 2018, and any year
21 thereafter the quantity of Central Valley
22 Project water forecasted to be made available to
23 all water service or repayment contractors of
24 the Central Valley Project is below 50 percent
25 of the total quantity of water to be made avail-

1 able under said contracts, the quantity of Cen-
2 tral Valley Project yield dedicated and managed
3 for that year under this paragraph shall be re-
4 duced by 25 percent.”.

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

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

16 **SEC. 606. TRANSFER THE NEW MELONES UNIT, CENTRAL**
17 **VALLEY PROJECT TO INTERESTED PRO-**
18 **VIDERS.**

19 (a) DEFINITIONS.—For the purposes of this Act, the
20 following terms apply:

21 (1) INTERESTED LOCAL WATER AND POWER
22 PROVIDERS.—The term “interested local water and
23 power providers” includes the Calaveras County
24 Water District, Calaveras Public Power Agency,
25 Central San Joaquin Water Conservation District,

1 Oakdale Irrigation District, Stockton East Water
2 District, South San Joaquin Irrigation District,
3 Tuolumne Utilities District, Tuolumne Public Power
4 Agency, and Union Public Utilities District.

5 (2) NEW MELONES UNIT, CENTRAL VALLEY
6 PROJECT.—The term “New Melones Unit, Central
7 Valley Project” means all Federal reclamation
8 projects located within or diverting water from or to
9 the watershed of the Stanislaus and San Joaquin
10 rivers and their tributaries as authorized by the Act
11 of August 26, 1937 (50 Stat. 850), and all Acts
12 amendatory or supplemental thereto, including the
13 Act of October 23, 1962 (76 Stat. 1173).

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

16 (b) NEGOTIATIONS.—Notwithstanding any other pro-
17 vision of law, not later than 180 days after the date of
18 the enactment of this Act, the Secretary shall enter into
19 negotiations with interested local water and power pro-
20 viders for the transfer ownership, control, and operation
21 of the New Melones Unit, Central Valley Project to inter-
22 ested local water and power providers within the State of
23 California.

24 (c) TRANSFER.—The Secretary shall transfer the
25 New Melones Unit, Central Valley Project in accordance

1 with an agreement reached pursuant to negotiations con-
2 ducted under subsection (b).

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

7 (1) if an agreement is reached pursuant to ne-
8 gotiations conducted under section 1(b), the terms of
9 that agreement;

10 (2) of the status of formal discussions with in-
11 terested local water and power providers for the
12 transfer of ownership, control, and operation of the
13 New Melones Unit, Central Valley Project to inter-
14 ested local water and power providers;

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

20 (4) on analysis and review of studies, reports,
21 discussions, hearing transcripts, negotiations, and
22 other information about past and present formal dis-
23 cussions that—

24 (A) have a serious impact on the progress
25 of the formal discussions;

1 (B) explain or provide information about
2 the issues that prevent progress or finalization
3 of formal discussions; or

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

6 (5) of any actions the Secretary recommends
7 that the United States should take to finalize an
8 agreement for that transfer.

9 **SEC. 607. BASIN STUDIES.**

10 (a) **AUTHORIZED STUDIES.**—The Secretary is au-
11 thorized and directed to expand opportunities and expedite
12 completion of assessments under section 9503(b) of the
13 SECURE Water Act, with non-Federal partners, of indi-
14 vidual sub-basins and watersheds within major Reclama-
15 tion river basins; and shall ensure timely decision and ex-
16 pedited implementation of adaptation and mitigation
17 strategies developed through the special study process.

18 (b) **FUNDING.**—

19 (1) **IN GENERAL.**—The non-Federal partners
20 shall be responsible for 100 percent of the cost of
21 the special studies.

22 (2) **CONTRIBUTED FUNDS.**—The Secretary may
23 accept and use contributions of funds from the non-
24 Federal partners to carry out activities under the
25 special studies.

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

2 The Secretary of the Interior, in the operation of the
3 Trinity River Division of the Central Valley Project, shall
4 not make releases from Lewiston Dam in excess of the
5 volume for each water-year type required by the U.S. De-
6 partment of the Interior Record of Decision, Trinity River
7 Mainstem Fishery Restoration Final Environmental Im-
8 pact Statement/Environmental Impact Report dated De-
9 cember 2000.

10 (1) A maximum of 369,000 acre-feet in a
11 “critically dry” year.

12 (2) A maximum of 453,000 acre-feet in a “dry”
13 year.

14 (3) A maximum of 647,000 acre-feet in a “nor-
15 mal” year.

16 (4) A maximum of 701,000 acre-feet in a “wet”
17 year.

18 (5) A maximum of 815,000 acre-feet in an “ex-
19 tremely wet” year.

20 **SEC. 609. AMENDMENT TO PURPOSES.**

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

23 (1) in subsection (f), by striking the period at
24 the end; and

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

1 “(g) to ensure that water dedicated to fish and wild-
2 life purposes by this title is replaced and provided to Cen-
3 tral Valley Project water contractors by December 31,
4 2018, at the lowest cost reasonably achievable; and

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

7 **SEC. 610. AMENDMENT TO DEFINITION.**

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

10 (1) by amending subsection (a) to read as fol-
11 lows:

12 “(a) the term ‘anadromous fish’ means those native
13 stocks of salmon (including steelhead) and sturgeon that,
14 as of October 30, 1992, were present in the Sacramento
15 and San Joaquin Rivers and their tributaries and ascend
16 those rivers and their tributaries to reproduce after matur-
17 ing in San Francisco Bay or the Pacific Ocean;”;

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

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

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

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

1 **TITLE VII—WATER SUPPLY**
2 **PERMITTING ACT**

3 **SEC. 701. SHORT TITLE.**

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

6 **SEC. 702. DEFINITIONS.**

7 In this title:

8 (1) **SECRETARY.**—The term “Secretary” means
9 the Secretary of the Interior.

10 (2) **BUREAU.**—The term “Bureau” means the
11 Bureau of Reclamation.

12 (3) **QUALIFYING PROJECTS.**—The term “quali-
13 fying projects” means new surface water storage
14 projects in the States covered under the Act of June
15 17, 1902 (32 Stat. 388, chapter 1093), and Acts
16 supplemental to and amendatory of that Act (43
17 U.S.C. 371 et seq.) constructed on lands adminis-
18 tered by the Department of the Interior or the De-
19 partment of Agriculture, exclusive of any easement,
20 right-of-way, lease, or any private holding.

21 (4) **COOPERATING AGENCIES.**—The term “co-
22 operating agency” means a Federal agency with ju-
23 risdiction over a review, analysis, opinion, statement,
24 permit, license, or other approval or decision re-
25 quired for a qualifying project under applicable Fed-

1 eral laws and regulations, or a State agency subject
2 to section 703(c).

3 **SEC. 703. ESTABLISHMENT OF LEAD AGENCY AND COOPER-**
4 **ATING AGENCIES.**

5 (a) ESTABLISHMENT OF LEAD AGENCY.—The Bu-
6 reau of Reclamation is established as the lead agency for
7 purposes of coordinating all reviews, analyses, opinions,
8 statements, permits, licenses, or other approvals or deci-
9 sions required under Federal law to construct qualifying
10 projects.

11 (b) IDENTIFICATION AND ESTABLISHMENT OF CO-
12 OPERATING AGENCIES.—The Commissioner of the Bureau
13 shall—

14 (1) identify, as early as practicable upon receipt
15 of an application for a qualifying project, any Fed-
16 eral agency that may have jurisdiction over a review,
17 analysis, opinion, statement, permit, license, ap-
18 proval, or decision required for a qualifying project
19 under applicable Federal laws and regulations; and

20 (2) notify any such agency, within a reasonable
21 timeframe, that the agency has been designated as
22 a cooperating agency in regards to the qualifying
23 project unless that agency responds to the Bureau in
24 writing, within a timeframe set forth by the Bureau,
25 notifying the Bureau that the agency—

1 (A) has no jurisdiction or authority with
2 respect to the qualifying project;

3 (B) has no expertise or information rel-
4 evant to the qualifying project or any review,
5 analysis, opinion, statement, permit, license, or
6 other approval or decision associated therewith;
7 or

8 (C) does not intend to submit comments
9 on the qualifying project or conduct any review
10 of such a project or make any decision with re-
11 spect to such project in a manner other than in
12 cooperation with the Bureau.

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

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

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

19 (A) have jurisdiction over the qualifying
20 project;

21 (B) are required to conduct or issue a re-
22 view, analysis, or opinion for the qualifying
23 project; or

1 (C) are required to make a determination
2 on issuing a permit, license, or approval for the
3 qualifying project.

4 **SEC. 704. BUREAU RESPONSIBILITIES.**

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

7 (1) serve as the point of contact for applicants,
8 State agencies, Indian tribes, and others regarding
9 proposed qualifying projects;

10 (2) coordinate preparation of unified environ-
11 mental documentation that will serve as the basis for
12 all Federal decisions necessary to authorize the use
13 of Federal lands for qualifying projects; and

14 (3) coordinate all Federal agency reviews nec-
15 essary for project development and construction of
16 qualifying projects.

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

19 (1) PRE-APPLICATION COORDINATION.—Notify
20 cooperating agencies of proposed qualifying projects
21 not later than 30 days after receipt of a proposal
22 and facilitate a preapplication meeting for prospec-
23 tive applicants, relevant Federal and State agencies,
24 and Indian tribes to—

1 (A) explain applicable processes, data re-
2 quirements, and applicant submissions nec-
3 essary to complete the required Federal agency
4 reviews within the timeframe established; and

5 (B) establish the schedule for the quali-
6 fying project.

7 (2) CONSULTATION WITH COOPERATING AGEN-
8 CIES.—Consult with the cooperating agencies
9 throughout the Federal agency review process, iden-
10 tify and obtain relevant data in a timely manner,
11 and set necessary deadlines for cooperating agencies.

12 (3) SCHEDULE.—Work with the qualifying
13 project applicant and cooperating agencies to estab-
14 lish a project schedule. In establishing the schedule,
15 the Bureau shall consider, among other factors—

16 (A) the responsibilities of cooperating
17 agencies under applicable laws and regulations;

18 (B) the resources available to the cooper-
19 ating agencies and the non-Federal qualifying
20 project sponsor, as applicable;

21 (C) the overall size and complexity of the
22 qualifying project;

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

1 (E) the sensitivity of the natural and his-
2 toric resources that may be affected by the
3 qualifying project.

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

14 (A) Not later than one year after accept-
15 ance of a completed project application when an
16 environmental assessment and finding of no sig-
17 nificant impact is determined to be the appro-
18 priate level of review under the National Envi-
19 ronmental Policy Act of 1969 (42 U.S.C. 4321
20 et seq.).

21 (B) Not later than one year and 30 days
22 after the close of the public comment period for
23 a draft environmental impact statement under
24 the National Environmental Policy Act of 1969
25 (42 U.S.C. 4321 et seq.), when an environ-

1 mental impact statement is required under the
2 same.

3 (5) CONSOLIDATED ADMINISTRATIVE
4 RECORD.—Maintain a consolidated administrative
5 record of the information assembled and used by the
6 cooperating agencies as the basis for agency deci-
7 sions.

8 (6) PROJECT DATA RECORDS.—To the extent
9 practicable and consistent with Federal law, ensure
10 that all project data is submitted and maintained in
11 generally accessible electronic format, compile, and
12 where authorized under existing law, make available
13 such project data to cooperating agencies, the quali-
14 fying project applicant, and to the public.

15 (7) PROJECT MANAGER.—Appoint a project
16 manager for each qualifying project. The project
17 manager shall have authority to oversee the project
18 and to facilitate the issuance of the relevant final
19 authorizing documents, and shall be responsible for
20 ensuring fulfillment of all Bureau responsibilities set
21 forth in this section and all cooperating agency re-
22 sponsibilities under section 705.

23 **SEC. 705. COOPERATING AGENCY RESPONSIBILITIES.**

24 (a) ADHERENCE TO BUREAU SCHEDULE.—Upon no-
25 tification of an application for a qualifying project, all co-

1 operating agencies shall submit to the Bureau a timeframe
2 under which the cooperating agency reasonably considers
3 it will be able to complete its authorizing responsibilities.
4 The Bureau shall use the timeframe submitted under this
5 subsection to establish the project schedule under section
6 704, and the cooperating agencies shall adhere to the
7 project schedule established by the Bureau.

8 (b) ENVIRONMENTAL RECORD.—Cooperating agen-
9 cies shall submit to the Bureau all environmental review
10 material produced or compiled in the course of carrying
11 out activities required under Federal law consistent with
12 the project schedule established by the Bureau.

13 (c) DATA SUBMISSION.—To the extent practicable
14 and consistent with Federal law, the cooperating agencies
15 shall submit all relevant project data to the Bureau in a
16 generally accessible electronic format subject to the project
17 schedule set forth by the Bureau.

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

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

24 (b) EFFECT ON PERMITTING.—

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

6 (2) EVALUATION OF PERMITS.—In carrying out
7 this section, the Secretary shall ensure that the eval-
8 uation of permits carried out using funds accepted
9 under this section shall—

10 (A) be reviewed by the Regional Director
11 of the Bureau of Reclamation, or the Regional
12 Director’s designee, of the region in which the
13 qualifying project or activity is located; and

14 (B) use the same procedures for decisions
15 that would otherwise be required for the evalua-
16 tion of permits for similar projects or activities
17 not carried out using funds authorized under
18 this section.

19 (3) IMPARTIAL DECISIONMAKING.—In carrying
20 out this section, the Secretary and the cooperating
21 agencies receiving funds under this section for quali-
22 fying projects shall ensure that the use of the funds
23 accepted under this section for such projects shall
24 not—

1 (A) impact impartial decisionmaking with
2 respect to the issuance of permits, either sub-
3 stantively or procedurally; or

4 (B) diminish, modify, or otherwise affect
5 the statutory or regulatory authorities of such
6 agencies.

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

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

15 **TITLE VIII—BUREAU OF REC-**
16 **LAMATION PROJECT STREAM-**
17 **LINING**

18 **SEC. 801. SHORT TITLE.**

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

21 **SEC. 802. DEFINITIONS.**

22 In this title:

23 (1) ENVIRONMENTAL IMPACT STATEMENT.—

24 The term “environmental impact statement” means
25 the detailed statement of environmental impacts of

1 a project required to be prepared pursuant to the
2 National Environmental Policy Act of 1969 (42
3 U.S.C. 4321 et seq.).

4 (2) ENVIRONMENTAL REVIEW PROCESS.—

5 (A) IN GENERAL.—The term “environ-
6 mental review process” means the process of
7 preparing an environmental impact statement,
8 environmental assessment, categorical exclusion,
9 or other document under the National Environ-
10 mental Policy Act of 1969 (42 U.S.C. 4321 et
11 seq.) for a project study.

12 (B) INCLUSIONS.—The term “environ-
13 mental review process” includes the process for
14 and completion of any environmental permit,
15 approval, review, or study required for a project
16 study under any Federal law other than the
17 National Environmental Policy Act of 1969 (42
18 U.S.C. 4321 et seq.).

19 (3) FEDERAL JURISDICTIONAL AGENCY.—The
20 term “Federal jurisdictional agency” means a Fed-
21 eral agency with jurisdiction delegated by law, regu-
22 lation, order, or otherwise over a review, analysis,
23 opinion, statement, permit, license, or other approval
24 or decision required for a project study under appli-
25 cable Federal laws (including regulations).

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

3 (5) PROJECT.—The term “project” means a
4 surface water project, a project under the purview of
5 title XVI of Public Law 102–575, or a rural water
6 supply project investigated under Public Law 109–
7 451 to be carried out, funded or operated in whole
8 or in part by the Secretary pursuant to the Act of
9 June 17, 1902 (32 Stat. 388, chapter 1093), and
10 Acts supplemental to and amendatory of that Act
11 (43 U.S.C. 371 et seq.).

12 (6) PROJECT SPONSOR.—The term “project
13 sponsor” means a State, regional, or local authority
14 or instrumentality or other qualifying entity, such as
15 a water conservation district, irrigation district,
16 water conservancy district, joint powers authority,
17 mutual water company, canal company, rural water
18 district or association, or any other entity that has
19 the capacity to contract with the United States
20 under Federal reclamation law.

21 (7) PROJECT STUDY.—The term “project
22 study” means a feasibility study for a project carried
23 out pursuant to the Act of June 17, 1902 (32 Stat.
24 388, chapter 1093), and Acts supplemental to and
25 amendatory of that Act (43 U.S.C. 371 et seq.).

1 (8) SECRETARY.—The term “Secretary” means
2 the Secretary of the Interior.

3 (9) SURFACE WATER STORAGE.—The term
4 “surface water storage” means any surface water
5 reservoir or impoundment that would be owned,
6 funded or operated in whole or in part by the Bu-
7 reau of Reclamation or that would be integrated into
8 a larger system owned, operated or administered in
9 whole or in part by the Bureau of Reclamation.

10 **SEC. 803. ACCELERATION OF STUDIES.**

11 (a) IN GENERAL.—To the extent practicable, a
12 project study initiated by the Secretary, after the date of
13 enactment of this Act, under the Reclamation Act of 1902
14 (32 Stat. 388), and all Acts amendatory thereof or supple-
15 mentary thereto, shall—

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

19 (2) have a maximum Federal cost of
20 \$3,000,000; and

21 (3) ensure that personnel from the local project
22 area, region, and headquarters levels of the Bureau
23 of Reclamation concurrently conduct the review re-
24 quired under this section.

1 (b) EXTENSION.—If the Secretary determines that a
2 project study described in subsection (a) will not be con-
3 ducted in accordance with subsection (a), the Secretary,
4 not later than 30 days after the date of making the deter-
5 mination, shall—

6 (1) prepare an updated project study schedule
7 and cost estimate;

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

10 (3) provide written notice to the Committee on
11 Natural Resources of the House of Representatives
12 and the Committee on Energy and Natural Re-
13 sources of the Senate as to the reasons the require-
14 ments of subsection (a) are not attainable.

15 (c) EXCEPTION.—

16 (1) IN GENERAL.—Notwithstanding the re-
17 quirements of subsection (a), the Secretary may ex-
18 tend the timeline of a project study by a period not
19 to exceed 3 years, if the Secretary determines that
20 the project study is too complex to comply with the
21 requirements of subsection (a).

22 (2) FACTORS.—In making a determination that
23 a study is too complex to comply with the require-
24 ments of subsection (a), the Secretary shall con-
25 sider—

1 (A) the type, size, location, scope, and
2 overall cost of the project;

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

5 (C) whether the project will require signifi-
6 cant action by other Federal, State, or local
7 agencies;

8 (D) whether there is significant public dis-
9 pute as to the nature or effects of the project;
10 and

11 (E) whether there is significant public dis-
12 pute as to the economic or environmental costs
13 or benefits of the project.

14 (3) NOTIFICATION.—Each time the Secretary
15 makes a determination under this subsection, the
16 Secretary shall provide written notice to the Com-
17 mittee on Natural Resources of the House of Rep-
18 resentatives and the Committee on Energy and Nat-
19 ural Resources of the Senate as to the results of
20 that determination, including an identification of the
21 specific one or more factors used in making the de-
22 termination that the project is complex.

23 (4) LIMITATION.—The Secretary shall not ex-
24 tend the timeline for a project study for a period of
25 more than 7 years, and any project study that is not

1 completed before that date shall no longer be au-
2 thorized.

3 (d) **REVIEWS.**—Not later than 90 days after the date
4 of the initiation of a project study described in subsection
5 (a), the Secretary shall—

6 (1) take all steps necessary to initiate the proc-
7 ess for completing federally mandated reviews that
8 the Secretary is required to complete as part of the
9 study, including the environmental review process
10 under section 805;

11 (2) convene a meeting of all Federal, tribal, and
12 State agencies identified under section 805(d) that
13 may—

14 (A) have jurisdiction over the project;

15 (B) be required by law to conduct or issue
16 a review, analysis, opinion, or statement for the
17 project study; or

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

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

1 (e) INTERIM REPORT.—Not later than 18 months
2 after the date of enactment of this Act, the Secretary shall
3 submit to the Committee on Natural Resources of the
4 House of Representatives and the Committee on Energy
5 and Natural Resources of the Senate and make publicly
6 available a report that describes—

7 (1) the status of the implementation of the
8 planning process under this section, including the
9 number of participating projects;

10 (2) a review of project delivery schedules, in-
11 cluding a description of any delays on those studies
12 initiated prior to the date of the enactment of this
13 Act; and

14 (3) any recommendations for additional author-
15 ity necessary to support efforts to expedite the
16 project.

17 (f) FINAL REPORT.—Not later than 4 years after the
18 date of enactment of this Act, the Secretary shall submit
19 to the Committee on Natural Resources of the House of
20 Representatives and the Committee on Energy and Nat-
21 ural Resources of the Senate and make publicly available
22 a report that describes—

23 (1) the status of the implementation of this sec-
24 tion, including a description of each project study
25 subject to the requirements of this section;

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

3 (3) any recommendations for additional author-
4 ity necessary to support efforts to expedite the
5 project study process, including an analysis of
6 whether the limitation established by subsection
7 (a)(2) needs to be adjusted to address the impacts
8 of inflation.

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

10 The Secretary shall—

11 (1) expedite the completion of any ongoing
12 project study initiated before the date of enactment
13 of this Act; and

14 (2) if the Secretary determines that the project
15 is justified in a completed report, proceed directly to
16 preconstruction planning, engineering, and design of
17 the project in accordance with the Reclamation Act
18 of 1902 (32 Stat. 388), and all Acts amendatory
19 thereof or supplementary thereto.

20 **SEC. 805. PROJECT ACCELERATION.**

21 (a) APPLICABILITY.—

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

23 (A) each project study that is initiated
24 after the date of enactment of this Act and for
25 which an environmental impact statement is

1 prepared under the National Environmental
2 Policy Act of 1969 (42 U.S.C. 4321 et seq.);

3 (B) the extent determined appropriate by
4 the Secretary, to other project studies initiated
5 before the date of enactment of this Act and for
6 which an environmental review process docu-
7 ment is prepared under the National Environ-
8 mental Policy Act of 1969 (42 U.S.C. 4321 et
9 seq.); and

10 (C) any project study for the development
11 of a non-federally owned and operated surface
12 water storage project for which the Secretary
13 determines there is a demonstrable Federal in-
14 terest and the project—

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

18 (ii) will create additional water sup-
19 plies that support Bureau of Reclamation
20 water projects; or

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

24 (2) FLEXIBILITY.—Any authority granted
25 under this section may be exercised, and any re-

1 requirement established under this section may be sat-
2 isfied, for the conduct of an environmental review
3 process for a project study, a class of project stud-
4 ies, or a program of project studies.

5 (3) LIST OF PROJECT STUDIES.—

6 (A) IN GENERAL.—The Secretary shall an-
7 nually prepare, and make publicly available, a
8 list of all project studies that the Secretary has
9 determined—

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

12 (ii) does not have adequate funding to
13 make substantial progress toward the com-
14 pletion of the project study.

15 (B) INCLUSIONS.—The Secretary shall in-
16 clude for each project study on the list under
17 subparagraph (A) a description of the estimated
18 amounts necessary to make substantial progress
19 on the project study.

20 (b) PROJECT REVIEW PROCESS.—

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

24 (2) COORDINATED REVIEW.—The coordinated
25 environmental review process described in paragraph

1 (1) shall require that any review, analysis, opinion,
2 statement, permit, license, or other approval or deci-
3 sion issued or made by a Federal, State, or local
4 governmental agency or an Indian tribe for a project
5 study described in subsection (b) be conducted, to
6 the maximum extent practicable, concurrently with
7 any other applicable governmental agency or Indian
8 tribe.

9 (3) TIMING.—The coordinated environmental
10 review process under this subsection shall be com-
11 pleted not later than the date on which the Sec-
12 retary, in consultation and concurrence with the
13 agencies identified under section 805(d), establishes
14 with respect to the project study.

15 (c) LEAD AGENCIES.—

16 (1) JOINT LEAD AGENCIES.—

17 (A) IN GENERAL.—Subject to the require-
18 ments of the National Environmental Policy
19 Act of 1969 (42 U.S.C. 4321 et seq.) and the
20 requirements of section 1506.8 of title 40, Code
21 of Federal Regulations (or successor regula-
22 tions), including the concurrence of the pro-
23 posed joint lead agency, a project sponsor may
24 serve as the joint lead agency.

1 (B) PROJECT SPONSOR AS JOINT LEAD
2 AGENCY.—A project sponsor that is a State or
3 local governmental entity may—

4 (i) with the concurrence of the Sec-
5 retary, serve as a joint lead agency with
6 the Federal lead agency for purposes of
7 preparing any environmental document
8 under the National Environmental Policy
9 Act of 1969 (42 U.S.C. 4321 et seq.); and

10 (ii) prepare any environmental review
11 process document under the National En-
12 vironmental Policy Act of 1969 (42 U.S.C.
13 4321 et seq.) required in support of any
14 action or approval by the Secretary if—

15 (I) the Secretary provides guid-
16 ance in the preparation process and
17 independently evaluates that docu-
18 ment;

19 (II) the project sponsor complies
20 with all requirements applicable to the
21 Secretary under—

22 (aa) the National Environ-
23 mental Policy Act of 1969 (42
24 U.S.C. 4321 et seq.);

1 (bb) any regulation imple-
2 menting that Act; and

3 (cc) any other applicable
4 Federal law; and

5 (III) the Secretary approves and
6 adopts the document before the Sec-
7 retary takes any subsequent action or
8 makes any approval based on that
9 document, regardless of whether the
10 action or approval of the Secretary re-
11 sults in Federal funding.

12 (2) DUTIES.—The Secretary shall ensure
13 that—

14 (A) the project sponsor complies with all
15 design and mitigation commitments made joint-
16 ly by the Secretary and the project sponsor in
17 any environmental document prepared by the
18 project sponsor in accordance with this sub-
19 section; and

20 (B) any environmental document prepared
21 by the project sponsor is appropriately supple-
22 mented to address any changes to the project
23 the Secretary determines are necessary.

24 (3) ADOPTION AND USE OF DOCUMENTS.—Any
25 environmental document prepared in accordance

1 with this subsection shall be adopted and used by
2 any Federal agency making any determination re-
3 lated to the project study to the same extent that
4 the Federal agency could adopt or use a document
5 prepared by another Federal agency under—

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

8 (B) parts 1500 through 1508 of title 40,
9 Code of Federal Regulations (or successor regu-
10 lations).

11 (4) ROLES AND RESPONSIBILITY OF LEAD
12 AGENCY.—With respect to the environmental review
13 process for any project study, the Federal lead agen-
14 cy shall have authority and responsibility—

15 (A) to take such actions as are necessary
16 and proper and within the authority of the Fed-
17 eral lead agency to facilitate the expeditious
18 resolution of the environmental review process
19 for the project study; and

20 (B) to prepare or ensure that any required
21 environmental impact statement or other envi-
22 ronmental review document for a project study
23 required to be completed under the National
24 Environmental Policy Act of 1969 (42 U.S.C.

1 4321 et seq.) is completed in accordance with
2 this section and applicable Federal law.

3 (d) PARTICIPATING AND COOPERATING AGENCIES.—

4 (1) IDENTIFICATION OF JURISDICTIONAL AGEN-
5 CIES.—With respect to carrying out the environ-
6 mental review process for a project study, the Sec-
7 retary shall identify, as early as practicable in the
8 environmental review process, all Federal, State, and
9 local government agencies and Indian tribes that
10 may—

11 (A) have jurisdiction over the project;

12 (B) be required by law to conduct or issue
13 a review, analysis, opinion, or statement for the
14 project study; or

15 (C) be required to make a determination
16 on issuing a permit, license, or other approval
17 or decision for the project study.

18 (2) STATE AUTHORITY.—If the environmental
19 review process is being implemented by the Sec-
20 retary for a project study within the boundaries of
21 a State, the State, consistent with State law, may
22 choose to participate in the process and to make
23 subject to the process all State agencies that—

24 (A) have jurisdiction over the project;

1 (B) are required to conduct or issue a re-
2 view, analysis, opinion, or statement for the
3 project study; or

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

7 (3) INVITATION.—

8 (A) IN GENERAL.—The Federal lead agen-
9 cy shall invite, as early as practicable in the en-
10 vironmental review process, any agency identi-
11 fied under paragraph (1) to become a partici-
12 pating or cooperating agency, as applicable, in
13 the environmental review process for the project
14 study.

15 (B) DEADLINE.—An invitation to partici-
16 pate issued under subparagraph (A) shall set a
17 deadline by which a response to the invitation
18 shall be submitted, which may be extended by
19 the Federal lead agency for good cause.

20 (4) PROCEDURES.—Section 1501.6 of title 40,
21 Code of Federal Regulations (as in effect on the
22 date of enactment of the Bureau of Reclamation
23 Surface Water Storage Streamlining Act) shall gov-
24 ern the identification and the participation of a co-
25 operating agency.

1 (5) FEDERAL COOPERATING AGENCIES.—Any
2 Federal agency that is invited by the Federal lead
3 agency to participate in the environmental review
4 process for a project study shall be designated as a
5 cooperating agency by the Federal lead agency un-
6 less the invited agency informs the Federal lead
7 agency, in writing, by the deadline specified in the
8 invitation that the invited agency—

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

11 (ii) has no expertise or information rel-
12 evant to the project; or

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

15 (B) does not intend to submit comments
16 on the project.

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

20 (7) EFFECT OF DESIGNATION.—Designation as
21 a participating or cooperating agency under this
22 subsection shall not imply that the participating or
23 cooperating agency—

24 (A) supports a proposed project; or

1 (B) has any jurisdiction over, or special ex-
2 pertise with respect to evaluation of, the
3 project.

4 (8) CONCURRENT REVIEWS.—Each partici-
5 pating or cooperating agency shall—

6 (A) carry out the obligations of that agen-
7 cy under other applicable law concurrently and
8 in conjunction with the required environmental
9 review process, unless doing so would prevent
10 the participating or cooperating agency from
11 conducting needed analysis or otherwise car-
12 rying out those obligations; and

13 (B) formulate and implement administra-
14 tive, policy, and procedural mechanisms to en-
15 able the agency to ensure completion of the en-
16 vironmental review process in a timely, coordi-
17 nated, and environmentally responsible manner.

18 (e) NON-FEDERAL PROJECTS INTEGRATED INTO
19 RECLAMATION SYSTEMS.—The Federal lead agency shall
20 serve in that capacity for the entirety of all non-Federal
21 projects that will be integrated into a larger system owned,
22 operated or administered in whole or in part by the Bu-
23 reau of Reclamation.

24 (f) NON-FEDERAL PROJECT.—If the Secretary deter-
25 mines that a project can be expedited by a non-Federal

1 sponsor and that there is a demonstrable Federal interest
2 in expediting that project, the Secretary shall take such
3 actions as are necessary to advance such a project as a
4 non-Federal project, including, but not limited to, entering
5 into agreements with the non-Federal sponsor of such
6 project to support the planning, design and permitting of
7 such project as a non-Federal project.

8 (g) PROGRAMMATIC COMPLIANCE.—

9 (1) IN GENERAL.—The Secretary shall issue
10 guidance regarding the use of programmatic ap-
11 proaches to carry out the environmental review proc-
12 ess that—

13 (A) eliminates repetitive discussions of the
14 same issues;

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

17 (C) establishes a formal process for coordi-
18 nating with participating and cooperating agen-
19 cies, including the creation of a list of all data
20 that are needed to carry out an environmental
21 review process; and

22 (D) complies with—

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

25 (ii) all other applicable laws.

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

3 (A) as the first step in drafting guidance
4 under that paragraph, consult with relevant
5 Federal, State, and local governmental agen-
6 cies, Indian tribes, and the public on the appro-
7 priate use and scope of the programmatic ap-
8 proaches;

9 (B) emphasize the importance of collabora-
10 tion among relevant Federal, State, and local
11 governmental agencies, and Indian tribes in un-
12 dertaking programmatic reviews, especially with
13 respect to including reviews with a broad geo-
14 graphical scope;

15 (C) ensure that the programmatic re-
16 views—

17 (i) promote transparency, including of
18 the analyses and data used in the environ-
19 mental review process, the treatment of
20 any deferred issues raised by Federal,
21 State, and local governmental agencies, In-
22 dian tribes, or the public, and the temporal
23 and special scales to be used to analyze
24 those issues;

1 (ii) use accurate and timely informa-
2 tion in the environmental review process,
3 including—

4 (I) criteria for determining the
5 general duration of the usefulness of
6 the review; and

7 (II) the timeline for updating any
8 out-of-date review;

9 (iii) describe—

10 (I) the relationship between pro-
11 grammatic analysis and future tiered
12 analysis; and

13 (II) the role of the public in the
14 creation of future tiered analysis; and

15 (iv) are available to other relevant
16 Federal, State, and local governmental
17 agencies, Indian tribes, and the public;

18 (D) allow not fewer than 60 days of public
19 notice and comment on any proposed guidance;
20 and

21 (E) address any comments received under
22 subparagraph (D).

23 (h) COORDINATED REVIEWS.—

24 (1) COORDINATION PLAN.—

1 (A) ESTABLISHMENT.—The Federal lead
2 agency shall, after consultation with and with
3 the concurrence of each participating and co-
4 operating agency and the project sponsor or
5 joint lead agency, as applicable, establish a plan
6 for coordinating public and agency participation
7 in, and comment on, the environmental review
8 process for a project study or a category of
9 project studies.

10 (B) SCHEDULE.—

11 (i) IN GENERAL.—As soon as prac-
12 ticable but not later than 45 days after the
13 close of the public comment period on a
14 draft environmental impact statement, the
15 Federal lead agency, after consultation
16 with and the concurrence of each partici-
17 pating and cooperating agency and the
18 project sponsor or joint lead agency, as ap-
19 plicable, shall establish, as part of the co-
20 ordination plan established in subpara-
21 graph (A), a schedule for completion of the
22 environmental review process for the
23 project study.

1 (ii) FACTORS FOR CONSIDERATION.—

2 In establishing a schedule, the Secretary
3 shall consider factors such as—

4 (I) the responsibilities of partici-
5 pating and cooperating agencies under
6 applicable laws;

7 (II) the resources available to the
8 project sponsor, joint lead agency, and
9 other relevant Federal and State
10 agencies, as applicable;

11 (III) the overall size and com-
12 plexity of the project;

13 (IV) the overall schedule for and
14 cost of the project; and

15 (V) the sensitivity of the natural
16 and historical resources that could be
17 affected by the project.

18 (iii) MODIFICATIONS.—The Secretary
19 may—

20 (I) lengthen a schedule estab-
21 lished under clause (i) for good cause;
22 and

23 (II) shorten a schedule only with
24 concurrence of the affected partici-
25 pating and cooperating agencies and

1 the project sponsor or joint lead agen-
2 cy, as applicable.

3 (iv) DISSEMINATION.—A copy of a
4 schedule established under clause (i) shall
5 be—

6 (I) provided to each participating
7 and cooperating agency and the
8 project sponsor or joint lead agency,
9 as applicable; and

10 (II) made available to the public.

11 (2) COMMENT DEADLINES.—The Federal lead
12 agency shall establish the following deadlines for
13 comment during the environmental review process
14 for a project study:

15 (A) DRAFT ENVIRONMENTAL IMPACT
16 STATEMENTS.—For comments by Federal and
17 State agencies and the public on a draft envi-
18 ronmental impact statement, a period of not
19 more than 60 days after publication in the Fed-
20 eral Register of notice of the date of public
21 availability of the draft environmental impact
22 statement, unless—

23 (i) a different deadline is established
24 by agreement of the Federal lead agency,
25 the project sponsor or joint lead agency, as

1 applicable, and all participating and co-
2 operating agencies; or

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

5 (B) OTHER ENVIRONMENTAL REVIEW
6 PROCESSES.—For all other comment periods es-
7 tablished by the Federal lead agency for agency
8 or public comments in the environmental review
9 process, a period of not more than 30 days
10 after the date on which the materials on which
11 comment is requested are made available, un-
12 less—

13 (i) a different deadline is established
14 by agreement of the Federal lead agency,
15 the project sponsor, or joint lead agency,
16 as applicable, and all participating and co-
17 operating agencies; or

18 (ii) the deadline is extended by the
19 Federal lead agency for good cause.

20 (3) DEADLINES FOR DECISIONS UNDER OTHER
21 LAWS.—In any case in which a decision under any
22 Federal law relating to a project study, including the
23 issuance or denial of a permit or license, is required
24 to be made by the date described in subsection
25 (i)(5)(B), the Secretary shall submit to the Com-

1 committee on Natural Resources of the House of Rep-
2 representatives and the Committee on Energy and Nat-
3 ural Resources of the Senate—

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

8 (B) every 60 days thereafter until such
9 date as all decisions of the Federal agency re-
10 lating to the project study have been made by
11 the Federal agency, an additional notice that
12 describes the number of decisions of the Fed-
13 eral agency that remain outstanding as of the
14 date of the additional notice.

15 (4) INVOLVEMENT OF THE PUBLIC.—Nothing
16 in this subsection reduces any time period provided
17 for public comment in the environmental review
18 process under applicable Federal law (including reg-
19 ulations).

20 (5) TRANSPARENCY REPORTING.—

21 (A) REPORTING REQUIREMENTS.—Not
22 later than 1 year after the date of enactment of
23 this Act, the Secretary shall establish and main-
24 tain an electronic database and, in coordination
25 with other Federal and State agencies, issue re-

1 porting requirements to make publicly available
2 the status and progress with respect to compli-
3 ance with applicable requirements of the Na-
4 tional Environmental Policy Act of 1969 (42
5 U.S.C. 4321 et seq.) and any other Federal,
6 State, or local approval or action required for a
7 project study for which this section is applica-
8 ble.

9 (B) PROJECT STUDY TRANSPARENCY.—

10 Consistent with the requirements established
11 under subparagraph (A), the Secretary shall
12 make publicly available the status and progress
13 of any Federal, State, or local decision, action,
14 or approval required under applicable laws for
15 each project study for which this section is ap-
16 plicable.

17 (i) ISSUE IDENTIFICATION AND RESOLUTION.—

18 (1) COOPERATION.—The Federal lead agency,
19 the cooperating agencies, and any participating
20 agencies shall work cooperatively in accordance with
21 this section to identify and resolve issues that could
22 delay completion of the environmental review process
23 or result in the denial of any approval required for
24 the project study under applicable laws.

1 (2) FEDERAL LEAD AGENCY RESPONSIBIL-
2 ITIES.—

3 (A) IN GENERAL.—The Federal lead agen-
4 cy shall make information available to the co-
5 operating agencies and participating agencies as
6 early as practicable in the environmental review
7 process regarding the environmental and socio-
8 economic resources located within the project
9 area and the general locations of the alter-
10 natives under consideration.

11 (B) DATA SOURCES.—The information
12 under subparagraph (A) may be based on exist-
13 ing data sources, including geographic informa-
14 tion systems mapping.

15 (3) COOPERATING AND PARTICIPATING AGENCY
16 RESPONSIBILITIES.—Based on information received
17 from the Federal lead agency, cooperating and par-
18 ticipating agencies shall identify, as early as prac-
19 ticable, any issues of concern regarding the potential
20 environmental or socioeconomic impacts of the
21 project, including any issues that could substantially
22 delay or prevent an agency from granting a permit
23 or other approval that is needed for the project
24 study.

1 (4) ACCELERATED ISSUE RESOLUTION AND
2 ELEVATION.—

3 (A) IN GENERAL.—On the request of a
4 participating or cooperating agency or project
5 sponsor, the Secretary shall convene an issue
6 resolution meeting with the relevant partici-
7 pating and cooperating agencies and the project
8 sponsor or joint lead agency, as applicable, to
9 resolve issues that may—

10 (i) delay completion of the environ-
11 mental review process; or

12 (ii) result in denial of any approval re-
13 quired for the project study under applica-
14 ble laws.

15 (B) MEETING DATE.—A meeting requested
16 under this paragraph shall be held not later
17 than 21 days after the date on which the Sec-
18 retary receives the request for the meeting, un-
19 less the Secretary determines that there is good
20 cause to extend that deadline.

21 (C) NOTIFICATION.—On receipt of a re-
22 quest for a meeting under this paragraph, the
23 Secretary shall notify all relevant participating
24 and cooperating agencies of the request, includ-

1 ing the issue to be resolved and the date for the
2 meeting.

3 (D) ELEVATION OF ISSUE RESOLUTION.—

4 If a resolution cannot be achieved within the
5 30-day period beginning on the date of a meet-
6 ing under this paragraph and a determination
7 is made by the Secretary that all information
8 necessary to resolve the issue has been ob-
9 tained, the Secretary shall forward the dispute
10 to the heads of the relevant agencies for resolu-
11 tion.

12 (E) CONVENTION BY SECRETARY.—The
13 Secretary may convene an issue resolution
14 meeting under this paragraph at any time, at
15 the discretion of the Secretary, regardless of
16 whether a meeting is requested under subpara-
17 graph (A).

18 (5) FINANCIAL PENALTY PROVISIONS.—

19 (A) IN GENERAL.—A Federal jurisdictional
20 agency shall complete any required approval or
21 decision for the environmental review process
22 on an expeditious basis using the shortest exist-
23 ing applicable process.

24 (B) FAILURE TO DECIDE.—

25 (i) IN GENERAL.—

1 (I) TRANSFER OF FUNDS.—If a
2 Federal jurisdictional agency fails to
3 render a decision required under any
4 Federal law relating to a project study
5 that requires the preparation of an
6 environmental impact statement or
7 environmental assessment, including
8 the issuance or denial of a permit, li-
9 cense, statement, opinion, or other ap-
10 proval by the date described in clause
11 (ii), the amount of funds made avail-
12 able to support the office of the head
13 of the Federal jurisdictional agency
14 shall be reduced by an amount of
15 funding equal to the amount specified
16 in item (aa) or (bb) of subclause (II),
17 and those funds shall be made avail-
18 able to the division of the Federal ju-
19 risdictional agency charged with ren-
20 dering the decision by not later than
21 1 day after the applicable date under
22 clause (ii), and once each week there-
23 after until a final decision is rendered,
24 subject to subparagraph (C).

1 (II) AMOUNT TO BE TRANS-
2 FERRED.—The amount referred to in
3 subclause (I) is—

4 (aa) \$20,000 for any project
5 study requiring the preparation
6 of an environmental assessment
7 or environmental impact state-
8 ment; or

9 (bb) \$10,000 for any project
10 study requiring any type of re-
11 view under the National Environ-
12 mental Policy Act of 1969 (42
13 U.S.C. 4321 et seq.) other than
14 an environmental assessment or
15 environmental impact statement.

16 (ii) DESCRIPTION OF DATE.—The
17 date referred to in clause (i) is the later
18 of—

19 (I) the date that is 180 days
20 after the date on which an application
21 for the permit, license, or approval is
22 complete; and

23 (II) the date that is 180 days
24 after the date on which the Federal
25 lead agency issues a decision on the

1 project under the National Environ-
2 mental Policy Act of 1969 (42 U.S.C.
3 4321 et seq.).

4 (C) LIMITATIONS.—

5 (i) IN GENERAL.—No transfer of
6 funds under subparagraph (B) relating to
7 an individual project study shall exceed, in
8 any fiscal year, an amount equal to 1 per-
9 cent of the funds made available for the
10 applicable agency office.

11 (ii) FAILURE TO DECIDE.—The total
12 amount transferred in a fiscal year as a re-
13 sult of a failure by an agency to make a
14 decision by an applicable deadline shall not
15 exceed an amount equal to 5 percent of the
16 funds made available for the applicable
17 agency office for that fiscal year.

18 (iii) AGGREGATE.—Notwithstanding
19 any other provision of law, for each fiscal
20 year, the aggregate amount of financial
21 penalties assessed against each applicable
22 agency office under this Act and any other
23 Federal law as a result of a failure of the
24 agency to make a decision by an applicable
25 deadline for environmental review, includ-

1 ing the total amount transferred under this
2 paragraph, shall not exceed an amount
3 equal to 9.5 percent of the funds made
4 available for the agency office for that fis-
5 cal year.

6 (D) NO FAULT OF AGENCY.—

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

14 (I) the agency has not received
15 necessary information or approvals
16 from another entity in a manner that
17 affects the ability of the agency to
18 meet any requirements under Federal,
19 State, or local law;

20 (II) significant new information,
21 including from public comments, or
22 circumstances, including a major
23 modification to an aspect of the
24 project, requires additional analysis

1 for the agency to make a decision on
2 the project application; or

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

13 (ii) LACK OF FINANCIAL RE-
14 SOURCES.—If the agency provides notice
15 under clause (i)(III), the Inspector General
16 of the agency shall—

17 (I) conduct a financial audit to
18 review the notice; and

19 (II) not later than 90 days after
20 the date on which the review described
21 in subclause (I) is completed, submit
22 to the Committee on Natural Re-
23 sources of the House of Representa-
24 tives and the Committee on Energy

1 and Natural Resources of the Senate
2 a notification on the notice.

3 (E) LIMITATION.—The Federal agency
4 from which funds are transferred pursuant to
5 this paragraph shall not reprogram funds to the
6 office of the head of the agency, or equivalent
7 office, to reimburse that office for the loss of
8 the funds.

9 (F) EFFECT OF PARAGRAPH.—Nothing in
10 this paragraph affects or limits the application
11 of, or obligation to comply with, any Federal,
12 State, local, or tribal law.

13 (j) MEMORANDUM OF AGREEMENTS FOR EARLY CO-
14 ORDINATION.—

15 (1) SENSE OF CONGRESS.—It is the sense of
16 Congress that—

17 (A) the Secretary and other Federal agen-
18 cies with relevant jurisdiction in the environ-
19 mental review process should cooperate with
20 each other, State and local agencies, and Indian
21 tribes on environmental review and Bureau of
22 Reclamation project delivery activities at the
23 earliest practicable time to avoid delays and du-
24 plication of effort later in the process, prevent
25 potential conflicts, and ensure that planning

1 and project development decisions reflect envi-
2 ronmental values; and

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

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

19 (3) MEMORANDUM OF AGENCY AGREEMENT.—
20 If requested at any time by a State or project spon-
21 sor, the Federal lead agency, in consultation with
22 other Federal agencies with relevant jurisdiction in
23 the environmental review process, may establish
24 memoranda of agreement with the project sponsor,
25 Indian tribes, State and local governments, and

1 other appropriate entities to carry out the early co-
2 ordination activities, including providing technical
3 assistance in identifying potential impacts and miti-
4 gation issues in an integrated fashion.

5 (k) LIMITATIONS.—Nothing in this section preempts
6 or interferes with—

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

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

11 (B) any other Federal environmental law;

12 (2) the reviewability of any final Federal agency
13 action in a court of the United States or in the court
14 of any State;

15 (3) any requirement for seeking, considering, or
16 responding to public comment; or

17 (4) any power, jurisdiction, responsibility, duty,
18 or authority that a Federal, State, or local govern-
19 mental agency, Indian tribe, or project sponsor has
20 with respect to carrying out a project or any other
21 provision of law applicable to projects.

22 (l) TIMING OF CLAIMS.—

23 (1) TIMING.—

24 (A) IN GENERAL.—Notwithstanding any
25 other provision of law, a claim arising under

1 Federal law seeking judicial review of a permit,
2 license, or other approval issued by a Federal
3 agency for a project study shall be barred un-
4 less the claim is filed not later than 3 years
5 after publication of a notice in the Federal Reg-
6 ister announcing that the permit, license, or
7 other approval is final pursuant to the law
8 under which the agency action is taken, unless
9 a shorter time is specified in the Federal law
10 that allows judicial review.

11 (B) APPLICABILITY.—Nothing in this sub-
12 section creates a right to judicial review or
13 places any limit on filing a claim that a person
14 has violated the terms of a permit, license, or
15 other approval.

16 (2) NEW INFORMATION.—

17 (A) IN GENERAL.—The Secretary shall
18 consider new information received after the
19 close of a comment period if the information
20 satisfies the requirements for a supplemental
21 environmental impact statement under title 40,
22 Code of Federal Regulations (including suc-
23 cessor regulations).

24 (B) SEPARATE ACTION.—The preparation
25 of a supplemental environmental impact state-

1 ment or other environmental document, if re-
2 quired under this section, shall be considered a
3 separate final agency action and the deadline
4 for filing a claim for judicial review of the ac-
5 tion shall be 3 years after the date of publica-
6 tion of a notice in the Federal Register an-
7 nouncing the action relating to such supple-
8 mental environmental impact statement or
9 other environmental document.

10 (m) CATEGORICAL EXCLUSIONS.—

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

14 (A) survey the use by the Bureau of Rec-
15 lamation of categorical exclusions in projects
16 since 2005;

17 (B) publish a review of the survey that in-
18 cludes a description of—

19 (i) the types of actions that were cat-
20 egorically excluded or could be the basis
21 for developing a new categorical exclusion;
22 and

23 (ii) any requests previously received
24 by the Secretary for new categorical exclu-
25 sions; and

1 (C) solicit requests from other Federal
2 agencies and project sponsors for new categor-
3 ical exclusions.

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

16 (n) REVIEW OF PROJECT ACCELERATION RE-
17 FORMS.—

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

20 (A) assess the reforms carried out under
21 this section; and

22 (B) not later than 5 years and not later
23 than 10 years after the date of enactment of
24 this Act, submit to the Committee on Natural
25 Resources of the House of Representatives and

1 the Committee on Energy and Natural Re-
2 sources of the Senate a report that describes
3 the results of the assessment.

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

7 (A) project delivery;

8 (B) compliance with environmental laws;

9 and

10 (C) the environmental impact of projects.

11 (o) PERFORMANCE MEASUREMENT.—The Secretary
12 shall establish a program to measure and report on
13 progress made toward improving and expediting the plan-
14 ning and environmental review process.

15 (p) CATEGORICAL EXCLUSIONS IN EMERGENCIES.—
16 For the repair, reconstruction, or rehabilitation of a Bu-
17 reau of Reclamation surface water storage project that is
18 in operation or under construction when damaged by an
19 event or incident that results in a declaration by the Presi-
20 dent of a major disaster or emergency pursuant to the
21 Robert T. Stafford Disaster Relief and Emergency Assist-
22 ance Act (42 U.S.C. 5121 et seq.), the Secretary shall
23 treat such repair, reconstruction, or rehabilitation activity
24 as a class of action categorically excluded from the re-
25 quirements relating to environmental assessments or envi-

1 ronmental impact statements under section 1508.4 of title
2 40, Code of Federal Regulations (or successor regula-
3 tions), if the repair or reconstruction activity is—

4 (1) in the same location with the same capacity,
5 dimensions, and design as the original Bureau of
6 Reclamation surface water storage project as before
7 the declaration described in this section; and

8 (2) commenced within a 2-year period begin-
9 ning on the date of a declaration described in this
10 subsection.

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

12 (a) IN GENERAL.—Not later than February 1 of each
13 year, the Secretary shall develop and submit to the Com-
14 mittee on Natural Resources of the House of Representa-
15 tives and the Committee on Energy and Natural Re-
16 sources of the Senate an annual report, to be entitled “Re-
17 port to Congress on Future Water Project Development”,
18 that identifies the following:

19 (1) PROJECT REPORTS.—Each project report
20 that meets the criteria established in subsection
21 (c)(1)(A).

22 (2) PROPOSED PROJECT STUDIES.—Any pro-
23 posed project study submitted to the Secretary by a
24 non-Federal interest pursuant to subsection (b) that

1 meets the criteria established in subsection
2 (c)(1)(A).

3 (3) PROPOSED MODIFICATIONS.—Any proposed
4 modification to an authorized water project or
5 project study that meets the criteria established in
6 subsection (c)(1)(A) that—

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

9 (B) is identified by the Secretary for au-
10 thorization.

11 (4) EXPEDITED COMPLETION OF REPORT AND
12 DETERMINATIONS.—Any project study that was ex-
13 pedited and any Secretarial determinations under
14 section 804.

15 (b) REQUESTS FOR PROPOSALS.—

16 (1) PUBLICATION.—Not later than May 1 of
17 each year, the Secretary shall publish in the Federal
18 Register a notice requesting proposals from non-
19 Federal interests for proposed project studies and
20 proposed modifications to authorized projects and
21 project studies to be included in the annual report.

22 (2) DEADLINE FOR REQUESTS.—The Secretary
23 shall include in each notice required by this sub-
24 section a requirement that non-Federal interests
25 submit to the Secretary any proposals described in

1 paragraph (1) by not later than 120 days after the
2 date of publication of the notice in the Federal Reg-
3 ister in order for the proposals to be considered for
4 inclusion in the annual report.

5 (3) NOTIFICATION.—On the date of publication
6 of each notice required by this subsection, the Sec-
7 retary shall—

8 (A) make the notice publicly available, in-
9 cluding on the Internet; and

10 (B) provide written notification of the pub-
11 lication to the Committee on Natural Resources
12 of the House of Representatives and the Com-
13 mittee on Energy and Natural Resources of the
14 Senate.

15 (c) CONTENTS.—

16 (1) PROJECT REPORTS, PROPOSED PROJECT
17 STUDIES, AND PROPOSED MODIFICATIONS.—

18 (A) CRITERIA FOR INCLUSION IN RE-
19 PORT.—The Secretary shall include in the an-
20 nual report only those project reports, proposed
21 project studies, and proposed modifications to
22 authorized projects and project studies that—

23 (i) are related to the missions and au-
24 thorities of the Bureau of Reclamation;

1 (ii) require specific congressional au-
2 thorization, including by an Act of Con-
3 gress;

4 (iii) have not been congressionally au-
5 thorized;

6 (iv) have not been included in any
7 previous annual report; and

8 (v) if authorized, could be carried out
9 by the Bureau of Reclamation.

10 (B) DESCRIPTION OF BENEFITS.—

11 (i) DESCRIPTION.—The Secretary
12 shall describe in the annual report, to the
13 extent applicable and practicable, for each
14 proposed project study and proposed modi-
15 fication to an authorized water resources
16 development project or project study in-
17 cluded in the annual report, the benefits,
18 as described in clause (ii), of each such
19 study or proposed modification.

20 (ii) BENEFITS.—The benefits (or ex-
21 pected benefits, in the case of a proposed
22 project study) described in this clause are
23 benefits to—

24 (I) the protection of human life
25 and property;

1 (II) improvement to domestic ir-
2 rrigated water and power supplies;

3 (III) the national economy;

4 (IV) the environment; or

5 (V) the national security inter-
6 ests of the United States.

7 (C) IDENTIFICATION OF OTHER FAC-
8 TORS.—The Secretary shall identify in the an-
9 nual report, to the extent practicable—

10 (i) for each proposed project study in-
11 cluded in the annual report, the non-Fed-
12 eral interest that submitted the proposed
13 project study pursuant to subsection (b);
14 and

15 (ii) for each proposed project study
16 and proposed modification to a project or
17 project study included in the annual re-
18 port, whether the non-Federal interest has
19 demonstrated—

20 (I) that local support exists for
21 the proposed project study or pro-
22 posed modification to an authorized
23 project or project study (including the
24 surface water storage development
25 project that is the subject of the pro-

1 posed feasibility study or the proposed
2 modification to an authorized project
3 study); and

4 (II) the financial ability to pro-
5 vide the required non-Federal cost
6 share.

7 (2) TRANSPARENCY.—The Secretary shall in-
8 clude in the annual report, for each project report,
9 proposed project study, and proposed modification to
10 a project or project study included under paragraph
11 (1)(A)—

12 (A) the name of the associated non-Fed-
13 eral interest, including the name of any non-
14 Federal interest that has contributed, or is ex-
15 pected to contribute, a non-Federal share of the
16 cost of—

17 (i) the project report;

18 (ii) the proposed project study;

19 (iii) the authorized project study for
20 which the modification is proposed; or

21 (iv) construction of—

22 (I) the project that is the subject
23 of—

24 (aa) the water report;

1 (bb) the proposed project
2 study; or

3 (cc) the authorized project
4 study for which a modification is
5 proposed; or

6 (II) the proposed modification to
7 a project;

8 (B) a letter or statement of support for the
9 water report, proposed project study, or pro-
10 posed modification to a project or project study
11 from each associated non-Federal interest;

12 (C) the purpose of the feasibility report,
13 proposed feasibility study, or proposed modi-
14 fication to a project or project study;

15 (D) an estimate, to the extent practicable,
16 of the Federal, non-Federal, and total costs
17 of—

18 (i) the proposed modification to an
19 authorized project study; and

20 (ii) construction of—

21 (I) the project that is the subject
22 of—

23 (aa) the project report; or

24 (bb) the authorized project
25 study for which a modification is

1 proposed, with respect to the
2 change in costs resulting from
3 such modification; or

4 (II) the proposed modification to
5 an authorized project; and

6 (E) an estimate, to the extent practicable,
7 of the monetary and nonmonetary benefits of—

8 (i) the project that is the subject of—

9 (I) the project report; or

10 (II) the authorized project study

11 for which a modification is proposed,

12 with respect to the benefits of such

13 modification; or

14 (ii) the proposed modification to an

15 authorized project.

16 (3) CERTIFICATION.—The Secretary shall in-

17 clude in the annual report a certification stating

18 that each feasibility report, proposed feasibility

19 study, and proposed modification to a project or

20 project study included in the annual report meets

21 the criteria established in paragraph (1)(A).

22 (4) APPENDIX.—The Secretary shall include in

23 the annual report an appendix listing the proposals

24 submitted under subsection (b) that were not in-

25 cluded in the annual report under paragraph (1)(A)

1 and a description of why the Secretary determined
2 that those proposals did not meet the criteria for in-
3 clusion under such paragraph.

4 (d) SPECIAL RULE FOR INITIAL ANNUAL REPORT.—
5 Notwithstanding any other deadlines required by this sec-
6 tion, the Secretary shall—

7 (1) not later than 60 days after the date of en-
8 actment of this Act, publish in the Federal Register
9 a notice required by subsection (b)(1); and

10 (2) include in such notice a requirement that
11 non-Federal interests submit to the Secretary any
12 proposals described in subsection (b)(1) by not later
13 than 120 days after the date of publication of such
14 notice in the Federal Register in order for such pro-
15 posals to be considered for inclusion in the first an-
16 nual report developed by the Secretary under this
17 section.

18 (e) PUBLICATION.—Upon submission of an annual
19 report to Congress, the Secretary shall make the annual
20 report publicly available, including through publication on
21 the Internet.

22 (f) DEFINITION.—In this section, the term “project
23 report” means a final feasibility report developed under
24 the Reclamation Act of 1902 (32 Stat. 388), and all Acts
25 amendatory thereof or supplementary thereto.

1 **TITLE IX—ACCELERATED REV-**
2 **ENUE, REPAYMENT, AND SUR-**
3 **FACE WATER STORAGE EN-**
4 **HANCEMENT**

5 **SEC. 901. SHORT TITLE.**

6 This title may be cited as the “Accelerated Revenue,
7 Repayment, and Surface Water Storage Enhancement
8 Act”.

9 **SEC. 902. PREPAYMENT OF CERTAIN REPAYMENT CON-**
10 **TRACTS BETWEEN THE UNITED STATES AND**
11 **CONTRACTORS OF FEDERALLY DEVELOPED**
12 **WATER SUPPLIES.**

13 (a) **CONVERSION AND PREPAYMENT OF CON-**
14 **TRACTS.—**

15 (1) **CONVERSION.**—Upon request of the con-
16 tractor, the Secretary of the Interior shall convert
17 any water service contract in effect on the date of
18 enactment of this Act and between the United
19 States and a water users’ association to allow for
20 prepayment of the repayment contract pursuant to
21 paragraph (2) under mutually agreeable terms and
22 conditions. The manner of conversion under this
23 paragraph shall be as follows:

24 (A) Water service contracts that were en-
25 tered into under section 9(e) of the Act of Au-

1 gust 4, 1939 (53 Stat. 1196), to be converted
2 under this section shall be converted to repay-
3 ment contracts under section 9(d) of that Act
4 (53 Stat. 1195).

5 (B) Water service contracts that were en-
6 tered under subsection (c)(2) of section 9 of the
7 Act of August 4, 1939 (53 Stat. 1194), to be
8 converted under this section shall be converted
9 to a contract under subsection (c)(1) of section
10 9 of that Act (53 Stat. 1195).

11 (2) PREPAYMENT.—All repayment contracts
12 under section 9(d) of that Act (53 Stat. 1195) in ef-
13 fect on the date of enactment of this Act and all
14 contracts converted pursuant to paragraph (1)(A)
15 shall—

16 (A) upon request of the contractor, provide
17 for the repayment, either in lump sum or by ac-
18 celerated prepayment, of the remaining con-
19 struction costs identified in water project spe-
20 cific irrigation rate repayment schedules, as ad-
21 justed to reflect payment not reflected in such
22 schedule, and properly assignable for ultimate
23 return by the contractor, or if made in approxi-
24 mately equal installments, no later than 3 years
25 after the effective date of the repayment con-

1 tract; such amount to be discounted by $\frac{1}{2}$ the
2 Treasury rate. 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 following receipt of request
6 of the contractor;

7 (B) require that construction costs or
8 other capitalized costs incurred after the effec-
9 tive date of the contract or not reflected in the
10 rate schedule referenced in subparagraph (A),
11 and properly assignable to such contractor shall
12 be repaid in not more than 5 years after notifi-
13 cation of the allocation if such amount is a re-
14 sult of a collective annual allocation of capital
15 costs to the contractors exercising contract con-
16 versation under this subsection of less than
17 \$5,000,000. If such amount is \$5,000,000 or
18 greater, such cost shall be repaid as provided by
19 applicable reclamation law;

20 (C) provide that power revenues will not be
21 available to aid in repayment of construction
22 costs allocated to irrigation under the contract;
23 and

24 (D) continue so long as the contractor
25 pays applicable charges, consistent with section

1 9(d) of the Act of August 4, 1939 (53 Stat.
2 1195), and applicable law.

3 (3) CONTRACT REQUIREMENTS.—The following
4 shall apply with regard to all repayment contracts
5 under subsection (c)(1) of section 9 of that Act (53
6 Stat. 1195) in effect on the date of enactment of
7 this Act and all contracts converted pursuant to
8 paragraph (1)(B):

9 (A) Upon request of the contractor, pro-
10 vide for the repayment in lump sum of the re-
11 maining construction costs identified in water
12 project specific municipal and industrial rate re-
13 payment schedules, as adjusted to reflect pay-
14 ments not reflected in such schedule, and prop-
15 erly assignable for ultimate return by the con-
16 tractor. An estimate of the remaining construc-
17 tion costs, as adjusted, shall be provided by the
18 Secretary to the contractor no later than 90
19 days after receipt of request of contractor.

20 (B) The contract shall require that con-
21 struction costs or other capitalized costs in-
22 curred after the effective date of the contract or
23 not reflected in the rate schedule referenced in
24 subparagraph (A), and properly assignable to
25 such contractor, shall be repaid in not more

1 than 5 years after notification of the allocation
2 if such amount is a result of a collective annual
3 allocation of capital costs to the contractors ex-
4 ercising contract conversation under this sub-
5 section of less than \$5,000,000. If such amount
6 is \$5,000,000 or greater, such cost shall be re-
7 paid as provided by applicable reclamation law.

8 (C) Continue so long as the contractor
9 pays applicable charges, consistent with section
10 9(e)(1) of the Act of August 4, 1939 (53 Stat.
11 1195), and applicable law.

12 (4) CONDITIONS.—All contracts entered into
13 pursuant to paragraphs (1), (2), and (3) shall—

14 (A) not be adjusted on the basis of the
15 type of prepayment financing used by the water
16 users' association;

17 (B) conform to any other agreements, such
18 as applicable settlement agreements and new
19 constructed appurtenant facilities; and

20 (C) not modify other water service, repay-
21 ment, exchange and transfer contractual rights
22 between the water users' association, and the
23 Bureau of Reclamation, or any rights, obliga-
24 tions, or relationships of the water users' asso-

1 ciation and their landowners as provided under
2 State law.

3 (b) ACCOUNTING.—The amounts paid pursuant to
4 subsection (a) shall be subject to adjustment following a
5 final cost allocation by the Secretary of the Interior. In
6 the event that the final cost allocation indicates that the
7 costs properly assignable to the contractor are greater
8 than what has been paid by the contractor, the contractor
9 shall be obligated to pay the remaining allocated costs.
10 The term of such additional repayment contract shall be
11 not less than one year and not more than 10 years, how-
12 ever, mutually agreeable provisions regarding the rate of
13 repayment of such amount may be developed by the par-
14 ties. In the event that the final cost allocation indicates
15 that the costs properly assignable to the contractor are
16 less than what the contractor has paid, the Secretary shall
17 credit such overpayment as an offset against any out-
18 standing or future obligation of the contractor.

19 (c) APPLICABILITY OF CERTAIN PROVISIONS.—

20 (1) EFFECT OF EXISTING LAW.—Upon a con-
21 tractor's compliance with and discharge of the obli-
22 gation of repayment of the construction costs pursu-
23 ant to a contract entered into pursuant to subsection
24 (a)(2)(A), subsections (a) and (b) of section 213 of

1 the Reclamation Reform Act of 1982 (96 Stat.
2 1269) shall apply to affected lands.

3 (2) EFFECT OF OTHER OBLIGATIONS.—The ob-
4 ligation of a contractor to repay construction costs
5 or other capitalized costs described in subsection
6 (a)(2)(B), (a)(3)(B), or (b) shall not affect a con-
7 tractor’s status as having repaid all of the construc-
8 tion costs assignable to the contractor or the appli-
9 cability of subsections (a) and (b) of section 213 of
10 the Reclamation Reform Act of 1982 (96 Stat.
11 1269) once the amount required to be paid by the
12 contractor under the repayment contract entered
13 into pursuant to subsection (a)(2)(A) have been
14 paid.

15 (d) EFFECT ON EXISTING LAW NOT ALTERED.—Im-
16 plementation of the provisions of this title shall not alter—

17 (1) the repayment obligation of any water serv-
18 ice or repayment contractor receiving water from the
19 same water project, or shift any costs that would
20 otherwise have been properly assignable to the water
21 users’ association identified in subsections (a)(1),
22 (a)(2), and (a)(3) absent this section, including op-
23 eration and maintenance costs, construction costs, or
24 other capitalized costs incurred after the date of the
25 enactment of this Act, or to other contractors; and

1 (2) specific requirements for the disposition of
2 amounts received as repayments by the Secretary
3 under the Act of June 17, 1902 (32 Stat. 388, chap-
4 ter 1093), and Acts supplemental to and amend-
5 atory of that Act (43 U.S.C. 371 et seq.).

6 (e) SURFACE WATER STORAGE ENHANCEMENT PRO-
7 GRAM.—

8 (1) IN GENERAL.—Except as provided in sub-
9 section (d)(2), three years following the date of en-
10 actment of this Act, no less than ____ percent of re-
11 ceipts generated from prepayment of contracts under
12 this section beyond amounts necessary to cover the
13 amount of receipts forgone from scheduled payments
14 under current law for the 10-year period following
15 the date of enactment of this Act shall be directed
16 to the Reclamation Surface Water Storage Account
17 under paragraph (2).

18 (2) SURFACE STORAGE ACCOUNT.—The Sec-
19 retary shall allocate amounts collected under para-
20 graph (1) into the “Reclamation Surface Storage
21 Account” to fund the construction of surface water
22 storage. The Secretary may also enter into coopera-
23 tive agreements with water users’ associations for
24 the construction of surface water storage and
25 amounts within the Surface Storage Account may be

1 used to fund such construction. Surface water stor-
2 age projects that are otherwise not federally author-
3 ized shall not be considered Federal facilities as a
4 result of any amounts allocated from the Surface
5 Storage Account for part or all of such facilities.

6 (3) REPAYMENT.—Amounts used for surface
7 water storage construction from the Account shall be
8 fully reimbursed to the Account consistent with the
9 requirements under Federal reclamation law (the
10 law (the Act of June 17, 1902 (32 Stat. 388, chap-
11 ter 1093))), and Acts supplemental to and amend-
12 atory of that Act (43 U.S.C. 371 et seq.) except that
13 all funds reimbursed shall be deposited in the Ac-
14 count established under paragraph (1).

15 (4) AVAILABILITY OF AMOUNTS.—Amounts de-
16 posited in the Account under this subsection shall—

17 (A) be made available in accordance with
18 this section, subject to appropriation; and

19 (B) be in addition to amounts appropriated
20 for such purposes under any other provision of
21 law.

22 (5) PURPOSES OF SURFACE WATER STORAGE.—
23 Construction of surface water storage under this sec-
24 tion shall be made for the following purposes:

1 (A) Increased municipal and industrial
2 water supply.

3 (B) Agricultural floodwater, erosion, and
4 sedimentation reduction.

5 (C) Agricultural drainage improvements.

6 (D) Agricultural irrigation.

7 (E) Increased recreation opportunities.

8 (F) Reduced adverse impacts to fish and
9 wildlife from water storage or diversion projects
10 within watersheds associated with water storage
11 projects funded under this section.

12 (G) Any other purposes consistent with
13 reclamation laws or other Federal law.

14 (f) DEFINITIONS.—For the purposes of this title, the
15 following definitions apply:

16 (1) ACCOUNT.—The term “Account” means the
17 Reclamation Surface Water Storage Account estab-
18 lished under subsection (e)(2).

19 (2) CONSTRUCTION.—The term “construction”
20 means the designing, materials engineering and test-
21 ing, surveying, and building of surface water storage
22 including additions to existing surface water storage
23 and construction of new surface water storage facili-
24 ties, exclusive of any Federal statutory or regulatory

1 obligations relating to any permit, review, approval,
2 or other such requirement.

3 (3) SURFACE WATER STORAGE.—The term
4 “surface water storage” means any federally owned
5 facility under the jurisdiction of the Bureau of Rec-
6 lamation or any non-Federal facility used for the
7 surface storage and supply of water resources.

8 (4) TREASURY RATE.—The term “Treasury
9 rate” means the 20-year Constant Maturity Treas-
10 ury (CMT) rate published by the United States De-
11 partment of the Treasury existing on the effective
12 date of the contract.

13 (5) WATER USERS’ ASSOCIATION.—The term
14 “water users’ association” means—

15 (A) an entity organized and recognized
16 under State laws that is eligible to enter into
17 contracts with reclamation to receive contract
18 water for delivery to and users of the water and
19 to pay applicable charges; and

20 (B) includes a variety of entities with dif-
21 ferent names and differing functions, such as
22 associations, conservatory district, irrigation
23 district, municipality, and water project con-
24 tract unit.

1 **TITLE X—SAFETY OF DAMS**

2 **SEC. 1001. AUTHORIZATION OF ADDITIONAL PROJECT BEN-**
3 **EFITS.**

4 The Reclamation Safety of Dams Act of 1978 is
5 amended—

6 (1) in section 3, by striking “Construction” and
7 inserting “Except as provided in section 5B, con-
8 struction”; and

9 (2) by inserting after section 5A (43 U.S.C.
10 509) the following:

11 **“SEC. 5B. AUTHORIZATION OF ADDITIONAL PROJECT BEN-**
12 **EFITS.**

13 “Notwithstanding section 3, if the Secretary deter-
14 mines that additional project benefits, including but not
15 limited to additional conservation storage capacity, are
16 feasible and not inconsistent with the purposes of this Act,
17 the Secretary is authorized to develop additional project
18 benefits through the construction of new or supplementary
19 works on a project in conjunction with the Secretary’s ac-
20 tivities under section 2 of this Act and subject to the con-
21 ditions described in the feasibility study, provided—

22 “(1) the Secretary determines that developing
23 additional project benefits through the construction
24 of new or supplementary works on a project will pro-

1 mote more efficient management of water and
2 water-related facilities;

3 “(2) the feasibility study pertaining to addi-
4 tional project benefits has been authorized pursuant
5 to section 8 of the Federal Water Project Recreation
6 Act of 1965 (16 U.S.C. 4601–18); and

7 “(3) the costs associated with developing the
8 additional project benefits are allocated to the au-
9 thorized purposes of the structure and repaid con-
10 sistent with all provisions of Federal Reclamation
11 law (the Act of June 17, 1902, 43 U.S.C. 371 et
12 seq.) and Acts supplemental to and amendatory of
13 that Act.”.

14 **TITLE XI—WATER RIGHTS** 15 **PROTECTION**

16 **SEC. 1101. SHORT TITLE.**

17 This title may be cited as the “Water Rights Protec-
18 tion Act”.

19 **SEC. 1102. DEFINITION OF WATER RIGHT.**

20 In this title, the term “water right” means any sur-
21 face or groundwater right filed, permitted, certified, con-
22 firmed, decreed, adjudicated, or otherwise recognized by
23 a judicial proceeding or by the State in which the user
24 acquires possession of the water or puts the water to bene-

1 ficial use, including water rights for federally recognized
2 Indian tribes.

3 **SEC. 1103. TREATMENT OF WATER RIGHTS.**

4 The Secretary of the Interior and the Secretary of
5 Agriculture shall not—

6 (1) condition or withhold, in whole or in part,
7 the issuance, renewal, amendment, or extension of
8 any permit, approval, license, lease, allotment, ease-
9 ment, right-of-way, or other land use or occupancy
10 agreement on—

11 (A) limitation or encumbrance of any
12 water right, or the transfer of any water right
13 (including joint and sole ownership), directly or
14 indirectly to the United States or any other des-
15 ignee; or

16 (B) any other impairment of any water
17 right, in whole or in part, granted or otherwise
18 recognized under State law, by Federal or State
19 adjudication, decree, or other judgment, or pur-
20 suant to any interstate water compact;

21 (2) require any water user (including any feder-
22 ally recognized Indian tribe) to apply for or acquire
23 a water right in the name of the United States
24 under State law as a condition of the issuance, re-
25 newal, amendment, or extension of any permit, ap-

1 proval, license, lease, allotment, easement, right-of-
2 way, or other land use or occupancy agreement;

3 (3) assert jurisdiction over groundwater with-
4 draws or impacts on groundwater resources, unless
5 jurisdiction is asserted, and any regulatory or policy
6 actions taken pursuant to such assertion are, con-
7 sistent with, and impose no greater restrictions or
8 regulatory requirements than, applicable State laws
9 (including regulations) and policies governing the
10 protection and use of groundwater resources; or

11 (4) infringe on the rights and obligations of a
12 State in evaluating, allocating, and adjudicating the
13 waters of the State originating on or under, or flow-
14 ing from, land owned or managed by the Federal
15 Government.

16 **SEC. 1104. RECOGNITION OF STATE AUTHORITY.**

17 (a) IN GENERAL.—In carrying out section 3, the Sec-
18 retary of the Interior and the Secretary of Agriculture
19 shall—

20 (1) recognize the longstanding authority of the
21 States relating to evaluating, protecting, allocating,
22 regulating, and adjudicating groundwater by any
23 means, including a rulemaking, permitting, directive,
24 water court adjudication, resource management
25 planning, regional authority, or other policy; and

1 (2) coordinate with the States in the adoption
2 and implementation by the Secretary of the Interior
3 or the Secretary of Agriculture of any rulemaking,
4 policy, directive, management plan, or other similar
5 Federal action so as to ensure that such actions are
6 consistent with, and impose no greater restrictions
7 or regulatory requirements than, State groundwater
8 laws and programs.

9 (b) EFFECT ON STATE WATER RIGHTS.—In carrying
10 out this Act, the Secretary of the Interior and the Sec-
11 retary of Agriculture shall not take any action that ad-
12 versely affects—

13 (1) any water rights granted by a State;

14 (2) the authority of a State in adjudicating
15 water rights;

16 (3) definitions established by a State with re-
17 spect to the term “beneficial use”, “priority of water
18 rights”, or “terms of use”;

19 (4) terms and conditions of groundwater with-
20 drawal, guidance and reporting procedures, and con-
21 servation and source protection measures established
22 by a State;

23 (5) the use of groundwater in accordance with
24 State law; or

1 (6) any other rights and obligations of a State
2 established under State law.

3 **SEC. 1105. EFFECT OF TITLE.**

4 (a) EFFECT ON EXISTING AUTHORITY.—Nothing in
5 this title limits or expands any existing legally recognized
6 authority of the Secretary of the Interior or the Secretary
7 of Agriculture to issue, grant, or condition any permit, ap-
8 proval, license, lease, allotment, easement, right-of-way, or
9 other land use or occupancy agreement on Federal land
10 subject to the jurisdiction of the Secretary of the Interior
11 or the Secretary of Agriculture, respectively.

12 (b) EFFECT ON RECLAMATION CONTRACTS.—Noth-
13 ing in this title interferes with Bureau of Reclamation con-
14 tracts entered into pursuant to the reclamation laws.

15 (c) EFFECT ON ENDANGERED SPECIES ACT.—Noth-
16 ing in this title affects the implementation of the Endan-
17 gered Species Act of 1973 (16 U.S.C. 1531 et seq.).

18 (d) EFFECT ON FEDERAL RESERVED WATER
19 RIGHTS.—Nothing in this title limits or expands any exist-
20 ing or claimed reserved water rights of the Federal Gov-
21 ernment on land administered by the Secretary of the In-
22 terior or the Secretary of Agriculture.

23 (e) EFFECT ON FEDERAL POWER ACT.—Nothing in
24 this title limits or expands authorities under sections 4(e),

1 10(j), or 18 of the Federal Power Act (16 U.S.C. 797(e),
2 803(j), 811).

3 (f) EFFECT ON INDIAN WATER RIGHTS.—Nothing in
4 this title limits or expands any water right or treaty right
5 of any federally recognized Indian tribe.

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