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114TH CONGRESS
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S. 1694

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

IN THE SENATE OF THE UNITED STATES

JUNE 25, 2015

Ms. CANTWELL (for herself and Mrs. MURRAY) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Yakima River Basin Water Enhancement Project Phase III Act of 2015".

SEC. 2. MODIFICATION OF TERMS, PURPOSES, AND DEFINITIONS.

(a) MODIFICATION OF TERMS.—

(1) IN GENERAL.—Title XII of Public Law 103–434 (108 Stat. 4550) is amended—

(A) by striking ''Yakama Indian'' each place it appears and inserting ''Yakama''; and

(B) by striking ''Superintendent'' each place it appears and inserting ''Manager''.

(2) HEADING AMENDMENTS.—Section 1204 of Public Law 103–434 (108 Stat. 4555) is amended—

(A) in the section heading by striking ''**INDIAN**''; and

(B) in subsection (g), in the subsection heading, by striking ''YAKAMA INDIAN NATION'' and inserting ''YAKAMA NATION''.

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

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

''(1) to protect, mitigate, and enhance fish and wildlife and the recovery and maintenance of self-sustaining harvestable populations of fish and other aquatic life, both anadromous and resident species, throughout their historic distribution range in the Yakima Basin through—

''(A) improved water management and the constructions of fish passage at storage and di-

version dams, as authorized under the Hoover Power Plant Act of 1984 (43 U.S.C. 619 et seq.);

"(B) improved instream flows and water supplies;

"(C) improved water quality, watershed, and ecosystem function;

"(D) protection, creation, and enhancement of wetlands; and

"(E) other appropriate means of habitat improvement;";

(2) in paragraph (2), by inserting ", municipal, industrial, and domestic water supply and use purposes, especially during drought years, including reducing the frequency and severity of water supply shortages for pro-ratable irrigation entities" before the semicolon at the end;

(3) by striking paragraph (4);

(4) by redesignating paragraph (3) as paragraph (4);

(5) by inserting after paragraph (2) the following:

"(3) to authorize the Secretary to make water available for purchase or lease for meeting munic-

ipal, industrial, and domestic water supply purposes;'';

(6) in paragraph (5), by striking ''and'' at the end;

(7) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(8) by adding at the end the following:

''(7) to improve the resilience of the ecosystems, economies, and communities in the Basin as they faced drought, climate variability, and climate change, for the benefit of both the people and the fish and wildlife of the region; and

''(8) to authorize and implement the Yakima River Basin Integrated Water Resources Management Plan as Phase III of the Yakima River Basin Water Enhancement Project, in a balanced approach to maximize benefits to the communities and environment in the Basin.''.

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

(1) by redesignating paragraphs (6), (7), (8), (9), (10), (11), (12), (13), and (14) as paragraphs (7), (10), (11), (12), (13), (14), (15), (17), and (19), respectively;

(2) by inserting after paragraph (5) the following:

"(6) DESIGNATED FEDERAL OFFICIAL.—The term 'designated Federal official' means the Commissioner of Reclamation (or a designee), acting pursuant to the charter of the Conservation Advisory Group.";

(3) by inserting after paragraph (7) (as redesignated by paragraph (1)) the following:

"(8) MANAGEMENT PLAN.—The term 'Management Plan' means the plan described in the document entitled 'Final Programmatic Environmental Impact Statement and Integrated Water Resource Management Plan, Yakima River Basin, Water Enhancement Project, Benton, Kittitas, Klickitat, and Yakima Counties, WA' (77 Fed. Reg. 12076 (February 28, 2012)).

"(9) MUNICIPAL, INDUSTRIAL, AND DOMESTIC WATER SUPPLY AND USE.—The term 'municipal, industrial, and domestic water supply and use' means the supply and use of water for—

"(A) domestic consumption (whether urban or rural);

"(B) maintenance and protection of public health and safety;

"(C) manufacture, fabrication, processing, assembly, or other production of a good or commodity;

"(D) production of energy;

"(E) fish hatcheries; or

"(F) any conservation activity relating to a use described in any of subparagraphs (A) through (E).";

(4) by inserting after paragraph (15) (as redesignated by paragraph (1)) the following:

"(16) WORK GROUP.—The term 'Work Group' means the work group that—

"(A) is identified in section 90.38.010(2) of the Revised Code of Washington as responsible for development of the Management Plan;

"(B) includes representatives of—

"(i) the Yakama Nation;

"(ii) Federal and State governments;

"(iii) participating county and city governments;

"(iv) environmental organizations; and

"(v) irrigation districts; and

"(C) is not subject to the Federal Advisory Committee Act (5 U.S.C. App.).''; and

(5) by inserting after paragraph (17) (as redesignated by paragraph (1)) the following:

"(18) YAKIMA ENHANCEMENT PROJECT; YAKIMA RIVER BASIN WATER ENHANCEMENT PROJECT.—The terms 'Yakima Enhancement Project' and 'Yakima River Basin Water Enhancement Project' mean the Yakima River basin water enhancement project authorized by Congress pursuant to this Act and other Acts (including Public Law 96–162 (93 Stat. 1241), section 109 of Public Law 98–381 (16 U.S.C. 839b note; 98 Stat. 1340), Public Law 105–62 (111 Stat. 1320), and Public Law 106–372 (114 Stat. 1425)) to promote water conservation, water supply, habitat, and stream enhancement improvements in the Yakima River basin.".

SEC. 3. YAKIMA RIVER BASIN WATER CONSERVATION PROGRAM.

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

(1) in subsection (a)—

(A) in paragraph (1), by striking "title" and inserting "section"; and

(B) in paragraph (2), by striking ''irrigation'' and inserting ''the number of irrigated acres'';

(2) in subsection (c)—

(A) in paragraph (2)—

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

(ii) in subparagraph (E), by striking the comma at the end and inserting ''; and'';

(iii) in subparagraph (F), by striking ''Department of Wildlife of the State of Washington, and'' and inserting ''Department of Fish and Wildlife of the State of Washington.''; and

(iv) by striking subparagraph (G);

(B) in paragraph (3)—

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

(ii) in subparagraph (D), by striking '', and'' and inserting a semicolon;

(iii) in subparagraph (E), by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following:

"(F) provide recommendations to advance the purposes and programs of the Yakima Enhancement Project."; and

(C) by striking paragraph (4) and inserting the following:

"(4) DESIGNATED FEDERAL OFFICIAL.—The designated Federal official—

"(A) shall arrange and provide logistical support for meetings of the Conservation Advisory Group;

"(B) may use a facilitator to serve as a moderator for meetings of the Conservation Advisory Group or provide additional logistical support; and

"(C) shall grant any request for a facilitator by any member of the Conservation Advisory Group.";

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

"(4) PAYMENT OF LOCAL SHARE BY STATE OR FEDERAL GOVERNMENT.—The State or the Federal Government may fund not more than the 17.5 percent local share of the costs of the Basin Conservation Program in exchange for the long-term use of conserved water.";

(4) in subsection (e), by striking the first sentence and inserting the following: "To participate in the Basin Conservation Program, as described in subsection (b), an entity shall submit to the Secretary a proposed water conservation plan.";

(5) in subsection (i)(3)—

(A) by striking "purchase or lease" each place it appears and inserting "purchase, lease, or management"; and

(B) in the third sentence, by striking "made immediately upon availability" and all that follows through "Committee" and inserting "continued as needed to provide water to be used by the Yakima Project Manager as recommended by the System Operations Advisory Committee and the Conservation Advisory Group"; and

(6) in subsection (j)(4), in the first sentence, by striking "initial acquisition" and all that follows

through ''flushing flows'' and inserting ''acquisition of water from willing sellers or lessors specifically to provide improved instream flows for anadromous and resident fish and other aquatic life, including pulse flows to facilitate outward migration of anadromous fish''.

SEC. 4. YAKIMA BASIN WATER PROJECTS, OPERATIONS, AND AUTHORIZATIONS.

(a) YAKIMA NATION PROJECTS.—Section 1204(a)(2) of Public Law 103–434 (108 Stat. 4556) is amended in the first sentence by striking ''not more than $23,000,000'' and inserting ''not more than $49,000,000, at September 2000 prices, plus or minus such amounts as may be justified by reason of ordinary fluctuations of applicable cost indexes,''.

(b) OPERATION OF YAKIMA BASIN PROJECTS.—Section 1205 of Public Law 103–434 (108 Stat. 4557) is amended—

(1) in subsection (a)—

(A) in paragraph (4)—

(i) in subparagraph (A)—

(I) in clause (i)—

(aa) by inserting ''additional'' after ''secure'';

(bb) by striking ''flushing'' and inserting ''pulse''; and

(cc) by striking ''uses'' and inserting ''uses, in addition to the quantity of water provided under the treaty between the Yakama Nation and the United States'';

(II) by striking clause (ii);

(III) by redesignating clause (iii) as clause (ii); and

(IV) in clause (ii) (as so redesignated) by inserting ''and water rights mandated'' after ''goals'';

(ii) in subparagraph (B)—

(I) in clause (i), in the first sentence, by inserting ''in proportion to the funding received'' after ''Program''; and

(II) by adding at the end the following:

''(iii) CALCULATIONS AND DETERMINATIONS.—The Yakima Project Manager shall—

''(I) calculate the total amount of water conserved and acquired;

"(II) determine the amount of water available each year for the purpose of delivering or storing Project water for instream flows at variable rates (shaping), considering Yakima Project operational constraints; and

"(III) in consultation with the System Operations Advisory Committee, determine how and when the available water will be delivered or stored.

"(iv) USE OF CERTAIN PORTION.—The Yakima Project Manager, in consultation with the Systems Operations Advisory Committee, irrigation districts, and the Conservation Advisory Group, may acquire, manage, and use all or a portion of the irrigation district's ⅓ portion of the saved water resulting from conservation measures taken under this title to increase target flows or otherwise deliver Yakima Project water for instream flows. The right to use that water must be acquired by the Bureau of Reclamation or the State of Washington, in partnership with the Bu-

reau of Reclamation, from any willing irrigation district seller through purchase, donation, or lease. During drought years, when the Yakima Project proration level is set at 70 percent or less of full entitlement, the ⅓ portion of the saved water acquired under this title may be used to supplement the irrigation districts' and other entities' water supply under the total water supply available only if the saved water is in priority during that time, unless provisions are made to the contrary as a condition of purchase.''; and

(iii) by striking subparagraph (D); and

(B) by striking paragraph (6);

(2) in subsection (b) (as amended by section 2(a)(1)(B)), in the second sentence, by striking ''instream flows for use by the Yakima Project Manager as flushing flows or as otherwise'' and inserting ''fishery purposes, as''; and

(3) in subsection (e), by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—Additional purposes of the Yakima Project shall be any of the following:

"(A) To recover and maintain self-sustaining harvestable populations of native fish, both anadromous and resident species, throughout their historic distribution range in the Yakima Basin.

"(B) To protect, mitigate, and enhance aquatic life and wildlife.

"(C) Recreation.

"(D) Municipal, industrial, and domestic use.".

(c) LAKE CLE ELUM AUTHORIZATION OF APPROPRIATIONS.—Section 1206(a) of Public Law 103–434 (108 Stat. 4560) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking "at September" through "to—" and inserting "such sums as are necessary to—";

(B) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and indenting the clauses appropriately; and

(C) by striking clause (iii) (as so redesignated) and inserting the following:

"(iii) to conduct feasibility studies and to design, construct, operate, and maintain fish passage facilities, in addition to any fish passage facilities authorized by section 109 of the Hoover Power Plant Act of 1984 (16 U.S.C. 839b note; Public Law 98–381), as determined to be feasible and appropriate within the Yakima River basin; plus";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting the subparagraphs appropriately;

(3) in the matter preceding subparagraph (A) (as so redesignated), by striking "There is hereby" and inserting the following:

"(1) IN GENERAL.—There is"; and

(4) by adding at the end the following:

"(2) COST SHARING.—

"(A) IN GENERAL.—The Secretary may accept as part of the non-Federal cost-share, and expend as if appropriated, any contribution by the State of Washington or others, including in-kind services, that the Secretary determines will contribute toward the conduct and completion of the work.

"(B) FEDERAL SHARE.—The Federal cost-share for the project shall not exceed 50 percent of the total cost of the projects described in paragraph (1).".

(d) ENHANCEMENT OF WATER SUPPLIES FOR YAKIMA BASIN TRIBUTARIES.—Section 1207 of Public Law 103–434 (108 Stat. 4560) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "supplies" and inserting "management";

(B) in paragraph (1), by inserting "and water supply entities" after "owners"; and

(C) in paragraph (2)—

(i) in subparagraph (A), by inserting "that choose not to participate or opt out of tributary enhancement projects pursuant to this section" after "water right owners"; and

(ii) in subparagraph (B), by inserting "nonparticipating" before "tributary water users";

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking the paragraph designation and all that follows through ''(but not limited to)—'' and inserting the following:

''(1) IN GENERAL.—The Secretary, following consultation with the State of Washington, the Yakama Nation, and on agreement of appropriate water supply entities, is authorized to conduct studies to evaluate measures to further Yakima Project purposes on tributaries to the Yakima River. Enhancement programs that use measures authorized by this section may be investigated and implemented by the Secretary in tributaries, including Taneum Creek, other areas, or tributary basins that currently or could potentially be provided supplemental or transfer water by entities, such as the Kittitas Reclamation District or the Yakima-Tieton Irrigation District. Measures to evaluate include—'';

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

(iii) in subparagraph (A), by inserting before the semicolon at the end the following: '', including irrigation efficiency improvements (in coordination with programs of the Department of Agriculture), consolidation of diversions or administra-

tion, and diversion scheduling or coordination''; (iv) by redesignating subparagraphs (C) through (F) as subparagraphs (E) through (H), respectively; (v) by inserting after subparagraph (B) the following:

''(C) improvements in irrigation system management or delivery facilities within the Yakima River basin when those improvements allow for increased irrigation system conveyance and corresponding reduction in diversion from tributaries or flow enhancements to tributaries through direct flow supplementation or groundwater recharge;

''(D) improvements of irrigation system management or delivery facilities to reduce or eliminate excessively high flows caused by the use of natural streams for conveyance or irrigation water or return water;'';

(vi) in subparagraph (E) (as redesignated by clause (iv)), by striking ''ground water'' and inserting ''groundwater recharge and'';

(vii) in subparagraph (G) (as redesignated by clause (iv)), by inserting ''or transfer'' after ''purchase''; and

(viii) in subparagraph (H) (as redesignated by clause (iv)), by inserting ''stream processes and'' before ''stream habitats'';

(B) in paragraph (2)—

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

(ii) in subparagraph (B)—

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

(II) by striking ''and'' at the end;

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

(iv) by adding at the end the following:

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

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

(3) in subsection (c), in the matter preceding paragraph (1), by inserting ''nonsurface storage and'' after ''implement'';

(4) by striking subsection (d);

(5) by redesignating subsection (e) as subsection (d); and

(6) in paragraph (2) of subsection (d) (as so redesignated)—

(A) in the first sentence—

(i) by inserting ''and implementation'' after ''investigation'';

(ii) by striking ''other'' before ''Yakima River''; and

(iii) by inserting ''and other water supply entities'' after ''owners''; and

(B) by striking the second sentence.

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

(f) INTERIM COMPREHENSIVE BASIN OPERATING PLAN.—Section 1210(c) of Public Law 103–434 (108 Stat. 4564) is amended by striking ''$100,000'' and inserting ''$200,000, at September 2014 prices,''.

(g) ENVIRONMENTAL COMPLIANCE.—Section 1211 of Public Law 103–434 (108 Stat. 4564) is amended by inserting '', at September 2014 prices,'' after ''$2,000,000''.

SEC. 5. AUTHORIZATION OF PHASE III OF YAKIMA RIVER BASIN WATER ENHANCEMENT PROJECT.

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

''SEC. 1213. PHASE III GRANTS AND COOPERATIVE AGREEMENTS.

''The Secretary may make grants or enter into cooperative agreements with the Yakama Nation, the State of Washington, Yakima River basin irrigation districts, water districts, conservation districts, other local governmental entities, nonprofit organizations, and land owners to carry out this title under such terms and conditions as the Secretary may require, including the following purposes:

''(1) Land and water transfers, leases, and acquisitions from willing participants, so long as the acquiring entity shall hold title and be responsible

for any and all required operations, maintenance, and management of that land and water.

"(2) Operation and maintenance or management of Federal land acquired under this title, in partnership with the Secretary.

"(3) To combine or relocate diversion points, remove fish barriers, or for other activities that increase flows or improve habitat in the Yakima River and its tributaries in furtherance of this title.

"(4) To implement, in partnership with Federal and non-Federal entities, projects to enhance the health and resilience of the watershed, subject to the condition that if such a grant or cooperative agreement results in a direct benefit to a project beneficiary, the Secretary may determine that the costs are reimbursable.

"SEC. 1214. AUTHORIZATION OF PHASE III OF YAKIMA RIVER BASIN WATER ENHANCEMENT PROJECT.

"(a) MANAGEMENT PLAN IMPLEMENTATION.—

"(1) IN GENERAL.—It is the intent of Congress that the Management Plan shall be implemented in its entirety, in accordance with applicable laws.

"(2) INITIAL DEVELOPMENT PHASE.—

"(A) IN GENERAL.—During the Initial Development Phase of the Management Plan, the Secretary, in conjunction with the State of Washington and in consultation with the Work Group, shall—

"(i) complete the planning, design, and construction or development of upstream and downstream fish passage facilities at a Yakima Project reservoir, in addition to the Cle Elum Reservoir project described in section 1206, pursuant to the Hoover Power Plant Act of 1984 (43 U.S.C. 619 et seq.), to be identified by the Work Group and consistent with the Management Plan, as set forth in the applicable feasibility study or report;

"(ii) negotiate long-term agreements with participating proratable irrigation entities in the Yakima Basin for the non-Federal financing, construction, operation, and maintenance of—

"(I) new facilities needed to access and deliver inactive storage in Lake Kachess for the purpose of providing drought relief for irrigation

(known as the 'Kachess Drought Relief Pumping Plant'), as set forth in the applicable feasibility study or report; and

''(II) a conveyance system to allow transfer of water between Keechelus Reservoir to Kachess Reservoir for purposes of improving operational flexibility for the benefit of both fish and irrigation (known as the 'K to K Pipeline'), as set forth in the applicable feasibility study or report; and

''(iii) participate in, provide funding for, and accept non-Federal financing for—

''(I) water conservation projects, not subject to the provisions of the Basin Conservation Program described in section 1203, that are intended to partially implement the Management Plan by providing 85,000 acre-feet of conserved water to improve tributary and mainstem stream flow; and

"(II) aquifer storage and recovery projects benefitting all beneficial uses.

"(B) COMMENCEMENT DATE.—The Initial Development Phase under this paragraph shall commence on the date of enactment of this section.

"(3) INTERMEDIATE AND FINAL PHASES.—

"(A) IN GENERAL.—During the Intermediate and Final Development Phases of the Management Plan, any project that is determined by Secretary, in consultation with the State of Washington and Work Group, to be appropriate to meet the objectives of the Management Plan shall be designed and constructed, subject to authorization and appropriation.

"(B) INTERMEDIATE PHASE.—It is the intent of Congress that the Intermediate Development Phase of the Management Plan shall commence not later than 10 years after the date of enactment of this section.

"(C) FINAL PHASE.—It is the intent of Congress that the Final Development Phase of the Management Plan shall commence not later

than 20 years after the date of enactment of this section.

"(D) FEASIBILITY CONTINGENCY.—The Intermediate and Final Development Phases of the Management Plan shall be contingent on feasibility, as determined by the Secretary, in consultation with the Work Group, and in compliance with applicable laws.

"(4) PROGRESS REPORT.—

"(A) IN GENERAL.—Not later than 5 years after the date of enactment of this section, the Secretary, in conjunction with the State of Washington and in consultation with the Work Group, shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a progress report that shall serve as a supplement to the Management Plan.

"(B) REQUIREMENTS.—The progress report under this paragraph shall—

"(i) provide a review and reassessment, if needed, of the objectives of the Management Plan, as applied to all elements of the Management Plan;

"(ii) assess, through performance metrics measured throughout implementation of the Management Plan, the degree to which the Initial Phase addresses the objectives and all elements of the Management Plan;

"(iii) identify additional projects and activities proposed for inclusion in any future phase of the Management Plan to address the objectives of the Management Plan, as applied to all elements of the Management Plan; and

"(iv) for water supply projects—

"(I) provide a preliminary discussion of the means by which—

"(aa) water and costs associated with each recommended project would be allocated among authorized uses; and

"(bb) those allocations would be consistent with the objectives of the Management Plan; and

"(II) establish a plan for soliciting and formalizing subscriptions

among individuals and entities for participation in any of the recommended water supply projects that will establish the terms for participation, including fiscal obligations associated with subscription.

"(b) OPERATION AND MAINTENANCE OF KACHESS DROUGHT RELIEF PUMPING PLANT AND K TO K PIPELINE.—

"(1) USE OF LAKE KACHESS STORED WATER.—The additional stored water made available by the construction of facilities to access and deliver inactive storage in Lake Kachess under subsection (a)(2)(A)(ii)(I) shall—

"(A) be considered to be Yakima Project water;

"(B) not be part of the total water supply available, as that term is defined in various court rulings; and

"(C) be used exclusively by the Secretary—

"(i) to enhance the water supply in years when the total water supply available is not sufficient to provide 70 percent of proratable entitlements in order to make

that additional water available up to 70 percent of proratable entitlements to the Kittitas Reclamation District, the Roza Irrigation District, or other proratable irrigation entities participating in the construction, operation, and maintenance costs of the facilities under this title under such terms and conditions to which the districts may agree, subject to the conditions that—

"(I) the Bureau of Indian Affairs, the Wapato Irrigation Project, and the Yakama Nation, on an election to participate, may also obtain water from Lake Kachess inactive storage to enhance applicable existing irrigation water supply in accordance with such terms and conditions to which the Bureau of Indian Affairs and the Yakama Nation may agree; and

"(II) the additional supply made available under this subparagraph shall be available to participating individuals and entities in proportion to

the proratable entitlements of the participating individuals and entities; and

"(ii) to facilitate reservoir operations in the reach of the Yakima River between Keechelus Dam and Easton Dam for the propagation of anadromous fish.

"(2) ELECTRICAL POWER ASSOCIATED WITH KACHESS DROUGHT RELIEF PUMPING PLANT.—The Administrator of the Bonneville Power Administration, pursuant to the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839 et seq.), shall provide to the Secretary project power to operate the Kachess Pumping Plant constructed under this title whenever inactive storage in Lake Kachess is needed to provide drought relief for irrigation. The Administrator shall provide the power at the then-applicable lowest Bonneville Power Administration rate for public body, cooperative, and Federal agency customers firm obligations, which as of the date of enactment of this section is the priority firm Tier 1 rate, and shall not include any irrigation discount. At all other times, power needed to operate the Kachess Pumping Plant shall be obtained by the Secretary from a local provider. The cost of power for such pumping, station service

power, and all costs of transmitting power from the Federal Columbia River Power System to the Yakima Enhancement Project pumping facilities shall be borne by irrigation districts receiving the benefits of that water. The Commissioner of Reclamation shall be responsible for arranging transmission for deliveries of Federal power over the Bonneville system through applicable tariff and business practice processes of the Bonneville system and for arranging transmission for deliveries of power obtained from a local provider. The cost of the power shall be credited to fishery restoration goals of the Columbia River fish and wildlife program.

"(c) DESIGN AND USE OF GROUNDWATER RECHARGE PROJECTS.—

"(1) IN GENERAL.—Any water supply that results from an aquifer storage and recovery project shall not be considered to be a part of the total water supply available if—

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

"(B) the aquifer storage and recovery project will not otherwise impair any water sup-

ply available for any individual or entity entitled to use the total water supply available;

"(C) the development of the aquifer storage and recovery project will not impair fish or other aquatic life in any localized stream reach; and

"(D) the aquifer storage and recovery project is approved by the Work Group.

"(2) PROJECT TYPES.—The Secretary may design, implement, and otherwise participate in groundwater recharge projects of any of the following 3 types:

"(A) Aquifer recharge projects designed to redistribute Yakima Project water within a water year for the purposes of supplementing stream flow during the irrigation season, particularly during storage control, subject to the condition that if such a project is designed to supplement a mainstem reach, the water supply that results from the project shall be credited to instream flow targets, in lieu of using the total water supply available to meet those targets.

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

"(i) to supplement or mitigate for municipal uses;

"(ii) to supplement municipal supply in a subsurface aquifer; or

"(iii) to mitigate the effect of groundwater use on instream flow or senior water rights.

"(C) Aquifer storage and recovery projects designed to supplement existing irrigation water supply, or to store water in subsurface aquifers, for use by the Kittitas Reclamation District, the Roza Irrigation District, or any other proratable irrigation entity participating in the repayment of the construction, operation, and maintenance costs of the facilities under this section during years in which the total water supply available is insufficient to provide to those proratable irrigation entities all water to which the entities are entitled, subject to the conditions that—

"(i) the Bureau of Indian Affairs, the Wapato Irrigation Project, and the Yakama Nation, on an election to participate, may also obtain water from aquifer storage to enhance applicable existing irri-

gation water supply in accordance with such terms and conditions to which the Bureau of Indian Affairs and the Yakama Nation may agree; and

"(ii) nothing in this subparagraph affects any existing contract, law (including regulations) relating to repayment costs, or water rights.

"(d) FEDERAL COST-SHARE.—

"(1) IN GENERAL.—The Federal cost-share of a project carried out under this section shall be determined in accordance with the applicable laws (including regulations) and policies of the Bureau of Reclamation.

"(2) INITIAL PHASE.—The Federal cost-share for the Initial Development Phase of the Management Plan under subsection (a)(2), including the reimbursable share to be repaid by non-Federal project contractors, shall not exceed 50 percent of the total cost of the initial development phase.

"(3) STATE AND OTHER CONTRIBUTIONS.—The Secretary may accept as part of the non-Federal cost-share of a project carried out under this section, and expend as if appropriated, any contribution (including in-kind services) by the State of Washington

or any other individual or entity that the Secretary determines will enhance the conduct and completion of the project.

"(e) SAVINGS AND CONTINGENCIES.—Nothing in this section shall—

"(1) be a new or supplemental benefit for purposes of the Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.);

"(2) affect any contract in existence on the date of enactment of the Yakima River Basin Water Enhancement Project Phase III Act of 2015 that was executed pursuant to the reclamation laws;

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

"(4) affect, waive, abrogate, diminish, define, or interpret the treaty between the Yakama Nation and the United States.

"SEC. 1215. OPERATIONAL CONTROL OF WATER SUPPLIES.

"The Secretary shall retain authority and discretion over the management of project supplies to obtain maximum operational use and flexibility to meet all appropriated and adjudicated water rights. That authority and discretion includes the ability of the United States to

1 store, deliver, conserve, and reuse water supplies deriving
2 from projects authorized under this title.''.

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